Senate Committee on Environment and Public Works
Hearing Entitled, *"Hearing on the Fiscal Year 2023 Proposed Budget for the U.S. Environmental Protection Agency"*
April 6, 2022
Questions for the Record for The Honorable Michael S. Regan

Chairman Carper:

1. Under your leadership the EPA released its first ever National Recycling Strategy last November. **Are the funding levels in the President's FY2023 Budget sufficient to allow you to fully implement the National Recycling Strategy?**

   Response: The FY 2023 President's Budget request includes sufficient funding for implementation of the National Recycling Strategy, part of a multiyear visionary effort under EPA's Circular Economy Strategy Series to address plastic waste, engage communities, and prevent and reduce food loss and waste. The budget will provide EPA funding to expand the Agency's efforts to gather and provide high-quality scientific information and comprehensive data, finalize a financial needs assessment of the investment required to modernize waste management infrastructure to achieve consistent collection across the nation while maximizing the efficient delivery of materials to the circular economy, and develop estimates for the amounts of investment needed to provide all citizens with access to recycling services on par with access to disposal. EPA will work with industry, government, non-profit, community, and other stakeholders to implement actions identified in the National Recycling Strategy and identify additional actions needed to support a circular economy. EPA will also conduct and finalize various studies as required by the Save Our Seas 2.0 Act to address post-consumer materials management, including plastic waste.

2. Over the past year we have seen an unprecedented level of investment in recycling and other materials management programs at EPA through the Bipartisan Infrastructure Law (BIL) and the most recent FY2022 omnibus appropriations law. Those laws have provided funding for two new recycling grant programs, as well as funding to develop best practices for battery recycling. **Would you share the Agency's timeline for standing up these new programs, as well as some of the challenges the Agency might face in trying to expedite the process, including staffing? For example, does the Agency need to collect more data in order to carry out these activities?**

   Response: The BIL provided EPA with funds for battery recycling for fiscal year 2022, to remain available until September 30, 2026. EPA's tentative timeline for when the Solid Waste Infrastructure for Recycling (SWIFR) Infrastructure grants and the Education and Outreach grants will be available is as follows:
   - Conduct stakeholder outreach and engagement to inform development of grant programs- began January 2022 and will continue through this year.
   - Published three Requests for Information in the Federal Register - June 2022
   - Announce Funding Availability for both programs- Fall 2022

- Announce Grant Award Recipients- Spring 2023

EPA is working to put in place the Agency infrastructure to support the programs including hiring additional staff, evaluating eligible projects, assessing the proper allocation formulas, and developing the appropriate solicitation mechanism (e.g., a Request for Applications for competitive grants and release of Program Guidance for non-competitive grants).

On June 8, 2022, the Office of Land and Emergency Management (OLEM) published three Requests for Information to inform the scope of battery collection best practices, voluntary labeling guidelines, and communication materials for battery producers and consumers about the reuse and recycling of critical minerals from batteries. EPA also plans listening sessions over the next several months for stakeholders in battery reuse and recycling. EPA also continues to coordinate with other Agencies on related issues, including remining and recovery of critical minerals from mine wastes through the Federal Mining Dialogue, the Mining Reform Interagency Working Group (IWG), and IWG stakeholder convenings on mining regulations, laws, and permitting.

3. The President's Budget for FY2023 requests an additional $10 million for the Post Consumer Materials Management Grants, which would be in addition to the $55 million provided through advanced appropriations in the BIL. **Is this combined funding for FY2023 likely to be enough for the Agency to achieve its goals in meeting the infrastructure needs necessary to fully transition to a circular economy?**

   Response: Strengthening the U.S. recycling system is an EPA priority that will benefit the environment, the economy, and communities that have borne the brunt of poor waste management. The investment needed to enhance and improve the nation's recycling system is significant given the large number of eligible entities for the Infrastructure Grants. The National Recycling Strategy recognizes that EPA's actions alone will be insufficient to fully transition to a circular economy. It will be crucial to have participation from all sectors of the economy from consumers to private industry to all levels of government. EPA will use the grant funding from the BIL and the funds requested in the President's Budget to help catalyze the circular economy efforts and remove barriers to implementation. EPA will continue to publish strategies to inform decision-making at all levels to build a circular economy for all to address the urgent climate and environmental justice impacts associated with materials management. The strategies will focus on key areas with the greatest potential to reduce the lifecycle impacts of materials, including municipal solid waste, plastic waste, food waste, critical minerals and batteries, textiles, and construction and demolition debris.

   a. **How could the Agency leverage public/private partnerships to increase the impact of federal investments in this grant program?**

      Response: EPA is considering how to work public private partnerships into its infrastructure grant program to leverage, to the extent possible, the private funds that are available to improve infrastructure for solid waste management.

b. **How does the Agency plan to maintain these programs once the supplemental money provided in the BIL runs out?**

Response: Ensuring federal resources are dedicated to addressing communities' long-term needs is central to EPA's shared environmental responsibilities with our state and local community partners. We are carefully considering how best to scope the BIL grants so they are catalysts that create momentum for recycling that can hopefully be sustained after the BIL funding runs out. The FY 2023 President's Budget includes funding to support these efforts, and EPA will evaluate the most effective means to maintain and improve recycling infrastructure and practices in the future.

4. President Biden's Justice40 initiative requires that 40 percent of the benefits of federal spending in a variety of areas must benefit underserved communities. **How does EPA plan to meet the Justice40 funding goals in implementing the recycling grant programs created in BIL? Is the Agency considering providing additional technical assistance to help make sure that communities are able to apply for recycling grant funding?**

Response: The Justice40 Initiative does not "*require*" 40 percent of benefits of federal spending to go to underserved communities. It sets a *goal* to aim for directing 40 percent of the *overall* benefits derived from certain federal programs to *disadvantaged communities*. EPA is working to meet or exceed that goal.

The Infrastructure Investment and Jobs Act provides EPA with historic new funding to improve solid waste management infrastructure and recycling in the U.S. and supports implementation of the National Recycling Strategy and future strategies on food waste, plastics, and electronics. This funding falls into four major areas: (1) The Solid Waste Infrastructure for Recycling (SWIFR) Grants ($275 million), (2) Education and Outreach Grants ($75 million), (3) Battery Collection Best Practices ($10 million), and (4) Voluntary Battery Labeling Guidelines ($15M). The Consolidated Appropriations Act, 2022 provided an additional $2.5 million to support implementation of the SWIFR grant program and $1 million to support education and outreach.

Both the SWIFR grant program and the Recycling Education and Outreach Grants Program are covered programs under the Justice40 Initiative. EPA is currently developing these new grant programs and associated measures and will ensure that the grant programs comply with the Administration's Justice40 goals. Technical assistance will be essential to the success of these efforts. OLEM is working very closely with the Office of Environmental Justice on how we can incorporate technical assistance into these grant programs, including how to apply for and implement these new BIL programs.

EPA is committed to meeting, or exceeding, when possible, the Justice40 commitment for the recycling grant programs, as allowed by law, and will ensure potential grantees in disadvantaged communities receive notice of the funding opportunities.

5. The petitioners in the Supreme Court's ***Sackett v. EPA*** case have proposed a new test for identifying which waters are covered by the Clean Water Act's (CWA) pollution control, prevention, and cleanup programs. **Please provide an analysis of this new test, including**:

    a. **an estimate, by state, of the acreage of wetlands that would lose protection under petitioners' test;**

    Response: See below.

    b. **an estimate, by state, of the number of people served by drinking water systems drawing supply from source water protection areas that contain waters that would lose protection under petitioners' test;**

    Response: See below.

    c. **an estimate, by state, of the length of streams and rivers that would lose protection under petitioners' test;**

    Response: See below.

    d. **an assessment, by state, of the pollution- and flood-control functions of the wetlands that would lose protection under petitioners' test;**

    Response: See below.

    e. **a list, by industry type and by state, of currently-permitted facilities that discharge into waters that would lose protection under petitioners' test; and**

    Response: See below.

    f. **any other analysis you deem relevant to assessing such a test's impact on the physical, chemical, and biological integrity of the Nation's waters.**

    Response to all subparts of this QFR: Because this matter is pending before the U.S. Supreme Court, EPA is unable to comment on the litigation or any impact it may have. The United States filed its brief in this matter on June 10, 2022. In light of an order in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency* (D. Ariz., Aug. 30, 2021), and related litigation, EPA and the Army Corps have halted implementation of the Navigable Waters Protection Rule (NWPR) nationwide and are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice. EPA remains committed to establishing a durable definition of "waters of the United States" that is informed by diverse perspectives and protects public health, the environment, and downstream communities while supporting economic opportunity, agriculture,

and industries that depend on clean water. A final regulation is expected to be issued by EPA and the Army Corps by the end of this year.

Senator Whitehouse:

1. While at the CERA Week oil and gas conference, you mentioned that the Agency would begin looking at regulatory approaches for limiting carbon pollution from gas-fired power plants. **Please describe what you're considering and the anticipated timeline for this rulemaking.**

   Response: In late April 2022, EPA released a draft white paper on control techniques and measures that could reduce greenhouse gas (GHG) emissions from new stationary combustion turbines. These turbines, which are currently projected to be a significant part of U.S. electricity generation and GHG emissions in future years, primarily use natural gas to create electricity. This white paper is intended to inform EPA's ongoing review of GHG emission standards for new natural gas-fired combustion turbines under section 111(b) of the Clean Air Act, which is an integral part of the Agency's comprehensive power sector approach. In addition, we anticipate the white paper will serve as a resource for states, power companies, communities, and other stakeholders in the context of Clean Air Act permitting for individual generating facilities as well as state-level policy and regulatory decisions. The Agency sought public input on the white paper and the comment period closed on June 6, 2022. We are currently reviewing the comments.

2. While at CERA Week, you also discussed putting forward a suite of proposals that would address multiple pollutants from coal- and gas-fired power plants. **Please describe what you're considering and the anticipated timeline for this rulemaking.**

   Response: EPA is committed to carrying out its responsibility under our nation's laws to protect people from the full array of climate, health, and environmental impacts associated with fossil fuel-fired power plants – impacts that all too often fall hardest on communities that are already overburdened by pollution. As I described in my remarks at CERAWeek, EPA will meet this challenge by working in a transparent manner with a broad range of stakeholders, protecting public health and overburdened communities, and pursuing a well-coordinated approach that provides power companies and state regulators with the information they need to make cost-effective investment and planning decisions and to continue delivering reliable and affordable electricity.

   In furtherance of this vision, EPA began working on a number of clean air, clean water, and waste disposal standards in 2021, and this progress will continue this year and in 2023. Air actions include: reviewing the risk and technology review for the Mercury and Air Toxics Standards for power plants; a proposed "Good Neighbor" plan for ozone; and Clean Air Act section 111 GHG regulations for new and existing fossil fuel-fired power plants. Solid waste and water actions include coal combustion residual rules and supplemental effluent limitation guidelines for power plants.

In 2022, EPA issued a proposal to reaffirm the scientific, economic, and legal underpinnings of the 2012 Mercury and Air Toxics Standards for power plants and requested public comment on whether EPA should revisit the risk and technology review completed in 2020. EPA also proposed a new "Good Neighbor" federal implementation plan for ozone that would cut the nitrogen oxide emissions from power plants and industrial sources that significantly contribute to unhealthy levels of smog for over a million Americans who live downwind from those sources.

The Agency continues to evaluate our options for reducing carbon emissions from both new and existing power plants and is working toward proposals. EPA is obligated to put in place emission guidelines for carbon dioxide pollution from existing power plants under section 111(d) of the Clean Air Act. We are analyzing the Supreme Court's decision in the *West Virginia v. EPA* case and will make sure that what we propose is consistent with the decision. As we develop these proposed emissions guidelines, we are committed to building on the lessons of our prior efforts in this area, engaging a broad range of stakeholders, and achieving cost-effective reductions in pollution through measures that are firmly anchored in the law and conform to the Supreme Court's decision in *West Virginia.* EPA intends to also propose revisions to the GHG standards for new power plants under Clean Air Act section 111(b).

Finally, EPA anticipates proposing a legacy Coal Combustion Residual (CCR) surface impoundment rule, finalizing the CCR federal permit rule, and proposing strengthened wastewater pollution discharge limits for coal power plants that use steam to generate electricity.

3. As I noted during our exchange at the hearing, the rule-writing work of the Office of Air and Radiation (OAR) on the emissions driving the climate crisis is urgent.

    a. **How many full-time employees (FTEs) are currently employed in OAR to work on the urgent and essential greenhouse gas emissions regulations I mentioned during the hearing?**

    Response: See response below.

    b. **How many FTEs are currently employed in OAR to work on co-pollutant emissions regulations for the mobile and stationary sources I mentioned during the hearing?**

    Response: See response below.

    c. **To what extent is there overlap between these two groups of employees?**

    Response: Within OAR, the Office of Transportation and Air Quality (OTAQ), the Office of Air Quality Planning and Standards (OAQPS), the Office of Atmospheric Programs (OAP), and the OAR Immediate Office manage the Agency's programs, including its regulatory work, related to ambient air quality and GHG emissions. There is a total of 978.5 FTE for these offices in the FY

2022 Enacted Budget. Of the 978.5 FTE, 341 FTE are in OTAQ, 349 FTE are in OAQPS, 225.8 are in OAP, and 62.7 are in OAR's Immediate Office. Office level is the lowest organizational level at which the Agency comprehensively identifies FTE.

d. **How many FTEs are currently employed in other offices at EPA to work on non-airborne co-pollutant emissions regulations for the mobile and stationary sources I mentioned during the hearing? Please list the number of FTEs in each of EPA's offices who are engaged in this work.**

Response: The Office of Land and Emergency Management has 19 FTE and the Office of Water has 2.7 FTE that engage in this work.

e. **How many of the pending EPA rulemakings included in the Unified Regulatory Agenda are being prepared by OAR? How many addressing non-airborne emissions from the mobile and stationary sources I mentioned are being prepared by other offices with EPA?**

Response: OAR has 50 proposed and 31 final rulemakings in the Spring 2022 Unified Regulatory Agenda. The other EPA offices have 45 proposed and 22 final rulemakings in the Spring 2022 Unified Regulatory Agenda.

f. **How will the funding levels provided by the omnibus for OAR effect staffing levels in that office? How will funding levels provided by the omnibus for other offices within EPA that are working on regulations relating to the mobile and stationary sources I mentioned effect staffing levels in those offices?**

Response: The final FY 2022 appropriations level for OAR was lower than what we anticipated based on the House and Senate marks. When increased fixed costs, such as payroll, are factored in, the final Omnibus level essentially keeps OAR's resources level with FY 2021.

OAR includes the Office of Transportation and Air Quality, the Office of Air Quality Planning and Standards, the Office of Atmospheric Programs, the Office of Radiation and Indoor Air, regional air divisions, and the OAR Immediate Office. The FY 2022 Enacted Budget includes a total of 1,727.9 FTE for OAR.

g. **How would the funding request for FY23 for OAR effect staffing levels in that office? How the funding request for FY23 for other offices within EPA that are working on regulations relating to the mobile and stationary sources I mentioned effect staffing levels in those offices?**

Response: In order to tackle the climate crisis and address priority air work, it is critical that Congress fund the EPA at the level requested in the President's Budget. OAR includes the Office of Transportation and Air Quality, the Office of Air Quality Planning and Standards, the Office of Atmospheric Programs, the Office of Radiation and Indoor Air, regional air divisions, and the OAR

Immediate Office. The FY 2023 President's Budget includes a total of 1,993.2 FTE for these offices, which represents a 15.3% increase compared to the FY 2022 Enacted level.

h. **Are there other factors related to the appropriations process that effect the workload or resources of OAR or other offices working on regulations for co-pollutants from the mobile and stationary sources I mentioned?**

Response: Because the total amount of increased fixed costs, such as payroll, has not been fully factored into the appropriations process, the Agency has fewer resources to allocate to priority workload, including tackling the climate crisis, in the operating plan. Also, when the Agency needs to operate on a continuing resolution for an extended period of time, the resulting budget uncertainty hinders planning and execution of work, including rulemaking.

Ranking Member Capito:

1. In April 2021 when you testified before the Committee, you stated: "EPA is central to the NDC number that was developed" and that "we attempted to quantify EPA's role and its contribution to meeting that NDC." You stated, "I think the information that we generated that focuses on conceptually where these regulations might land within a range that information can be made available." **Please provide all information, analyses, and documents that EPA gave to the White House in developing the NDC.**

   Response: On May 9, 2022, EPA's Office of Congressional and Intergovernmental Relations provided the Committee a production of documents in response to Ranking Member Capito's oversight letter regarding the NDC. EPA followed up that document production with a briefing on June 13, 2022. EPA has also provided Committee staff with in-depth briefings on rulemakings that would form the basis of many of the reductions that will contribute to meeting the NDC.

2. On February 8, 2022, I sent you a letter asking for basic information and communications on EPA's electric generating unit (EGU) strategy. As I noted in my letter, this strategy was in development prior to your confirmation as Administrator but when Gina McCarthy and Joe Goffman were already serving in the Administration. **Are Gina McCarthy and Joe Goffman the primary architects of the EGU strategy?**

   Response: Gina McCarthy is not a primary architect of EPA's efforts to deliver certainty for the power sector and ensure significant public health benefits. Joe Goffman, in his role as Principal Deputy Assistant Administrator for OAR, has been a significant contributor to those actions that fall within OAR's purview.

3. **Please list all planned regulations and other Agency actions that are part of EPA's EGU strategy.**

   Response:

The following is a list of actions EPA is taking to deliver certainty for the power sector and ensure significant public health benefits in accordance with EPA's authorities:

- Reaffirm the MATS Appropriate and Necessary (A&N) Finding (proposed January 2022)
- Evaluate Revisions to the MATS Risk and Technology Review (RTR) (forthcoming)
- Propose Clean Air Act Good Neighbor Plan for Ozone (March 2022)
- Propose Standards of performance and emission guidelines for new and existing fossil fuel-fired electric generating units under Clean Air Act 111(b) and 111(d) (forthcoming)
- Propose Coal Combustion Residual (CCR) rule for legacy surface impoundments (forthcoming)
- Finalize CCR federal permit rule (forthcoming)
- Propose effluent limitations guidelines for power plants (forthcoming)

4. **Has the Agency studied the economy-wide impacts of implementing the EGU strategy?**

   Response: As a matter of course in Agency rulemakings, EPA performs regulatory impact analyses (RIAs) to examine and quantify, when possible, the likely benefits and costs of certain regulatory options. EPA prepares each RIA in accordance with Executive Orders and OMB guidelines.

5. **If the answer to the preceding question is yes, please provide a copy of the study.**

   Response: All RIAs are public documents, released in conjunction with the proposed and final rulemakings.

6. As you stated in the hearing, EPA will be "ready to go as soon as the Supreme Court rules" on power sector regulations under Clean Air Act Section 111(d). **When did EPA start developing these regulations?**

   Response: We are analyzing the Supreme Court's decision in the *West Virginia v. EPA* case and will make sure that what we propose is consistent with the decision. EPA is committed to using the full scope of its existing authorities to protect public health and significantly reduce environmental pollution, which is in alignment with the growing clean energy economy. This includes moving forward to set and implement environmental standards to protect Americans from power plant pollution that harms public health while ensuring an affordable and reliable supply of electricity.

7. **How soon after a Supreme Court decision in *West Virginia v. EPA* does EPA plan to propose regulations related to the power sector under Section 111(d)?**

   Response: As stated in the Spring 2022 Unified Regulatory Agenda, EPA intends to propose GHG regulations for existing fossil-fuel fired electric generating units in March 2023.

8. The D.C. Circuit Court of Appeals on July 2, 2021 concluded that Congress did not intend to allow ethanol blends higher than 10 percent to be widely sold year-round. The White House stated on April 12, 2022 that the EPA is planning to issue a national, emergency waiver to make E15 available in the summer. **What specific statutory authority is EPA relying on to issue the waiver?**

   Response: Clean Air Act (CAA) Section 21 l(c)(4)(C)(ii) and (iii), 42 U.S.C. § 7454(c)(4)(C)(ii) and (iii), gives the EPA Administrator the authority, after consultation with the Secretary of Energy, to temporarily waive a fuel control in "extreme and unusual fuel [ ] supply circumstances."

9. **Does this authority extend to high fuel prices or only in instances of actual fuel supply disruptions?**

   Response: The authority extends to extreme and unusual fuel supply circumstances, in this instance caused by the war in Ukraine, that are affecting all regions of the Nation.

10. **Is EPA planning to issue a year-round E15 waiver primarily because of high fuel prices?**

    Response: EPA has received letters from several states inquiring about a Clean Air Act provision that could allow for year-round sales of E15, including during the summer driving season. We are looking into this issue.

11. **Does the Agency plan in any upcoming Renewable Fuel Standard action to propose approval of any electric pathways?**

    Response: Stakeholders have shown continued interest in EPA taking action under the RFS program to allow for the generation of Renewable Identification Numbers (RINs) derived from renewable electricity and used in transportation fuel (eRINs), using an already-approved pathway. EPA is committed to moving forward on this matter. After reviewing input and eRIN registration applications from stakeholders, as well as information gained from previous requests for public input on eRIN program design, we determined that proposing new regulations to clarify how the program would be operated was necessary and would provide an opportunity for the public to review our proposed approach. EPA is still developing these new regulations and will address questions regarding which pathways will be eligible as part of that proposed regulation.

12. During the hearing this month, you stated in response to Senator Lummis's question on small refinery exemptions, "I'm not quite in agreement that this relief would have that impact on gas prices," implying that exemptions would not impact prices at the pump. **Can you provide documentation in support of your assertion that approval of small refinery exemptions would not lower gas prices?**

Response: EPA's analyses, presented most recently in our June 2022 denial of petitions for Small Refinery Exemptions (SREs), indicate that refiners recover their compliance costs through the market prices for the products they sell. The analyses also indicate that the RFS renewable fuel credits lower the price of renewable fuels, and that these lower prices are also passed on to consumers. This cross subsidy between petroleum fuels and renewable fuels offset each other for some fuel blends, resulting in little change in the actual cost of the blended gasoline (E10).

13. Part of EPA's justification in its recent denial of all pending and prospective small refinery hardship petitions is that refiners can "recover their compliance costs through the market price they receive when they sell their fuel products and thus do not bear a hardship created by compliance with the RFS program."[1] **How does that justification square with your statement referenced in the preceding question that providing hardship waivers would not have an "impact on gas prices"?**

    Response: Granting or denying SREs doesn't change the required renewable fuel volume because under EPA regulations any exempted volumes from small refineries are reallocated to the rest of the industry. With no change in overall volumes, SREs, whether granted or denied, are essentially immaterial to any impact of the RFS program on fuels prices.

14. **Where do you believe the costs of compliance associated with the RFS program accrue and who ultimately pays them?**

    Response: In establishing the RFS program, Congress tasked EPA with implementing a policy that requires increasing amounts of renewable fuels to replace petroleum-based fuels over time. In assessing the impacts of the program, we typically look at two different questions. First: what *price* impacts might consumers see at the pump for E10 gasoline or diesel? And second: who, if anyone, bears the overall *cost* of the program?

    Refiners and obligated parties are able to pass through the compliance costs of the RFS program, as we have documented in numerous analyses. The impacts for consumers on retail prices for E10 gasoline and diesel of the program vary. Typically, there is little to no retail price impacts for E10 gasoline (see answers above for more detail), but there is a larger impact on retail diesel prices.

    With respect to the second part of question, Congress created a program that requires a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based fuels. Some of those renewable fuels (e.g., biofuels made from edible oils) can cost more than petroleum-based fuels, and ultimately it is society as a whole that bears the cost of such fuels required by the program.

15. On March 8, 2022, the EPA Office of Water released a memorandum regarding the implementation of the Clean Water and Drinking Water State Revolving Fund provision of the Bipartisan Infrastructure Law (hereinafter "SRF Memorandum"). In the body of the memorandum, EPA states that it "expects states" to review and revise definitions and

[1] https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013KMM.pdf

criteria in administering and determining allocations under the SRF programs, with significant additional direction provided in Appendix E of Attachment 1 to the SRF Memorandum. **Why does EPA expect states to change how they administer their SRF programs?**

Response: EPA engaged with states at every step of the memo development process and is wrapping up one-on-one conversations with every state's environmental and/or infrastructure secretaries to understand the concerns in each state. For both the base State Revolving Fund (SRF) programs and BIL SRF funding, EPA encourages state programs to regularly ensure that their definitions incorporate up-to-date data and approaches for identifying disadvantaged communities in their state. Congress has established that 49% of BIL funding allocated to the SRF programs through the capitalization grants must be provided as additional subsidization for eligible SRF assistance recipients or project types as described in CWA Section 603(i) and water systems that meet the state's disadvantaged community criteria as described in Safe Drinking Water Act (SDWA) Section 1452(d). As a result, states should evaluate whether their existing definitions are adequate in meeting this Congressional mandate as described in the aforementioned CWA and SDWA sections.

16. **What is the consequence to states if they do not follow EPA's expectations and EPA's "strong[] encourage[ment] … to amend their affordability and disadvantaged community definitions" in line with the SRF Memorandum?**

Response: The SRF implementation memo provides suggestions for states to consider, but the states are ultimately responsible for setting their affordability and disadvantaged community definitions, consistent with the statutes. Going forward, throughout the implementation of the BIL, EPA is supporting states by developing new resources, training, and technical assistance. We are here to help the state SRF programs, not hinder them. EPA's technical assistance and training programs will help communities, especially small and underserved communities, access the tools they need to address their pressing water infrastructure and other water quality needs.

17. **Do you agree that states have primacy in administering SRFs under the Safe Drinking Water and Clean Water Acts?**

Response: The state SRF programs must follow all requirements as set forth under CWA, SDWA, the Drinking Water SRF and Clean Water SRF regulations, and the Uniform Grant Guidance at 2 CFR Part 200. EPA, OMB, GAO, and Congress conduct varying levels of SRF oversight activities to ensure compliance and effective program management. The SRFs are established by CWA and SDWA, and states have the authority to operate their own SRF programs. States receive annual capitalization grants from EPA, which they use to support low interest loans and other types of assistance to water systems and other eligible entities. State participation in the SRFs is optional. States are not required to take their capitalization grants.

18. **Will EPA's stated policy preferences and directions in the SRF Memorandum, including about how states should define "disadvantaged community" and affordability criteria, be used by EPA to limit funding allocations or credit subsidies at any point in the SRF allocation processes?**

    Response: Congress established that 49% of BIL funding allocated to the SRF programs through the capitalization grants must be provided as additional subsidization for eligible CWSRF assistance recipients or project types as described in CWA Section 603(i) and water systems that meet the states' disadvantaged community criteria as described in SDWA Section 1452(d).

    CWA section 603(i)(2) requires states to develop affordability criteria that will assist them in identifying applicants that would have difficulty financing projects without additional subsidization. This affordability criteria includes income; unemployment data; population trends; and other data determined relevant by the state. Under SDWA Section 1452(d), the term "disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the state in which the public water system is located. EPA may publish information to assist states in establishing affordability criteria.

    States' Intended Use Plans must include a priority system for ranking individual projects for funding that provides sufficient detail for the public and EPA to readily understand the criteria used for ranking. The priority for the use of funds should address water quality and the most serious risks to public health, ensure compliance, and assist systems most in need based on the state's affordability criteria and disadvantaged community definitions. States should review their SRF priority setting system to ensure they adequately address these priorities.

19. EPA states that it will conduct "oversight" of states' definitions of "disadvantaged community" and use of affordability criteria. **What is EPA's statutory authority to conduct this oversight and how will EPA conduct it?**

    Response: The BIL included a provision, section 50216, that directs EPA to conduct an analysis of fund distributions to small and disadvantaged communities by November 15, 2023. EPA Headquarters and Regions will work collaboratively with states in this analysis.

    Additionally, 33 U.S. Code § 1386 requires EPA to conduct annual audits of the state Clean Water SRF programs, which includes the affordability criteria the states are using. For the Drinking Water SRF, 42 U.S. Code § 300j–12 requires states to submit a biannual report to the EPA Administrator and requires the Administrator to "periodically audit all State loan funds." The audit includes the affordability criteria the states are using.

20. I have heard concerns that the SRF Memorandum's reliance upon affordability criteria in identifying "disadvantaged communities" could deny many historically disadvantaged

communities the ability to benefit from billions of dollars in funding. **How do you respond to that concern?**

Response: EPA's *Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law* memo is a key step for allocating BIL funding. It outlines requirements, recommendations, and flexibilities for implementing the Drinking Water and Clean Water SRFs to ensure that EPA, states, and communities across the country are working together to deliver clean and safe water and replace lead pipes across throughout the country, especially in disadvantaged communities. EPA encourages states to use tailored and appropriate methods to identify and provide funding for disadvantaged communities in their state. This may mean states use different criteria in their definitions. Per the BIL SRF Implementation Memo, states can also use a definition of disadvantaged community that includes "a large public water system where a particular project within the system addresses a sub-set of the service area that meets affordability criteria."

21. Under the Clean Water Act, only states that obligate their full capitalization grant within the first fiscal year are eligible for any potential reallotment of unused funds. While states have two fiscal years to apply for the capitalization grants, they will be ineligible for any potential allotment if they do not obligate funds within the first fiscal year. Practically speaking, SRFs will have to apply by July 2022 for EPA to award the grants by end of September 2022 in order to maintain eligibility for potential reallotment. This is particularly problematic for this fiscal year because the EPA guidance was just released last month. **Will the short timeframe likely disadvantage small and rural states?**

Response: The process for the award of Clean Water SRF capitalization grants is well established and states are very familiar with the process. EPA is actively working with the states to submit applications for FY 2022 BIL funding so that awards can be made prior to September 30, 2022, in the first fiscal year of availability. Over its more than thirty-year history, the Clean Water SRF has never had to reallot funds. Every effort will be made by EPA and the states to ensure that the BIL funds are awarded within the two-year period of availability and that no funds will be reallotted.

22. **Can EPA provide any flexibility from these timelines presented in the previous question?**

Response: We are pledging to work with all partners—especially states—to maximize the impact of these funds in addressing urgent water and infrastructure challenges facing communities. Funds will remain available for obligation to states for the fiscal year in which they are appropriated and the following fiscal year, per the CWA and SDWA. EPA strongly encourages states to apply in the first fiscal year of availability. States must make commitments (i.e., they must sign assistance agreements, such as loans, with eligible recipients) within one year after the receipt of each capitalization grant payment from EPA. Once EPA obligates the capitalization grants to the states, the funds will be available to states pursuant to grant regulations.

23. **Please list all regulatory actions EPA plans to take to address PFAS in the next 24 months, as well as an anticipated date for each action.**

Response: EPA's planned actions to address PFAS are described in EPA's October 2021 *PFAS Strategic Roadmap: Commitments to Action 2021-2024*,[2] and further specified in EPA's Semiannual Regulatory Agenda.[3] That document describes the following PFAS-related regulatory actions and timing:

- Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances; Community Right-to-Know Toxic Chemical Release Reporting ("Enhance PFAS reporting under the Toxics Release Inventory") (proposed rule September 2022 and final rule November 2023)
- Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory (TRI) pursuant to Section 7321(d) of the 2020 National Defense Authorization Act ("Enhance PFAS reporting under the Toxics Release Inventory") (proposed rule February 2023 and final rule fall 2023)
- NDAA Mandated Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory for Reporting Year 2022 (final rule issued July 2022)
- Reporting and Recordkeeping for Per- and Polyfluoroalkyl Substances Under Section 8(a)(7) of the Toxic Substances Control Act (TSCA) ("Finalize new PFAS reporting under TSCA Section 8") (final rule fall 2022)
- Inactive Inventory Per- and Polyfluoroalkyl Substances (PFAS) Significant New Use Rule (proposed rule fall 2022)
- Per- and Polyfluoroalkyl Substances (PFAS): Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) National Primary Drinking Water Regulation Rulemaking ("Establish a national primary drinking water regulation for PFOA and PFOS") (proposed rule by end of 2022 and final rule by end of 2023)
- Clean Water Act Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category ("Restrict PFAS discharges from industrial sources through a multi-faceted Effluent Limitations Guidelines program") (proposed rule summer 2023)
- Revisions to the Metal Finishing Effluent Guidelines to Address PFAS Discharges in Chromium Electroplating Wastewater (proposed rule summer 2024)
- Designating PFOA and PFOS as Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Hazardous Substances ("Propose to designate certain PFAS as CERCLA hazardous substances") (proposed rule summer 2022 and final rule summer 2023)
- PFAS-Related Designations as CERCLA Hazardous Substances ("Propose to designate certain PFAS as CERCLA hazardous substances") (Advance Notice of Proposed Rulemaking November 2022)

[2] https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024
[3] https://www.epa.gov/laws-regulations/regulatory-agendas-and-regulatory-plans

- Undertake nationwide monitoring for PFAS in drinking water under the fifth Unregulated Contaminant Monitoring Rule (begins 2023). Using funds appropriated by Congress in FY22, EPA plans to expand the number of small systems at which sampling is performed in FY23, which will enhance our understanding of the level and frequency of PFAS in drinking water. EPA would continue this expanded program, pending future appropriations
- Identify PFAS under the fifth Contaminant Candidate List (CCL 5) as a group of contaminants that may be in drinking water and may require regulation under the SDWA (summer 2022)

In addition to the regulatory actions listed in EPA's PFAS Strategic Roadmap, EPA is also undertaking two regulatory actions under the Resource Conservation and Recovery Act (RCRA), announced on October 26, 2021:

- Initiate rulemaking to evaluate whether PFOA, PFAS, PFBS (perfluorobutane sulfonate), and GenX should be listed as RCRA Hazardous Constituents (proposed rule summer 2023)
- Definition of Hazardous Waste Applicable to Corrective Action for Solid Waste Management Units (proposed rule winter 2023)

24. **Please provide a detailed outline of current EPA activities to define and categorize PFAS.**

Response: As outlined in EPA's PFAS Strategic Roadmap, the Agency's approach to PFAS is shaped by the unique challenges to addressing PFAS contamination. These challenges include the need to evaluate a large number of PFAS for potential human health and ecological effects and the limited amount of available toxicity data. To accelerate EPA's ability to address the large, diverse class of PFAS and deliver public health protections sooner, EPA is working to define smaller categories of PFAS based on similarities across specific parameters (such as chemical structure, physical and chemical properties, and toxicological properties).

One initial application of this approach has been EPA's National PFAS Testing Strategy, which will inform requiring PFAS manufacturers to provide the Agency with toxicity data and information on categories of PFAS to inform future regulatory efforts. EPA selected the PFAS for testing using an approach that breaks more than 6,500 PFAS into smaller categories based on similar features and considers what existing data are available for each category. EPA plans to issue an initial set of test orders for PFAS from more than 20 different categories of PFAS.

25. **Is the work addressed by the preceding question being undertaken across all EPA offices?**

Response: Yes. EPA coordinates its PFAS work through EPA's PFAS Council, which EPA created in April 2021. The Council is a group of senior EPA policy and technical leaders that coordinates across EPA offices and Regions to accelerate progress on PFAS.

26. **What processes does EPA follow to consistently define and categorize PFAS across EPA program offices?**

Response: The risks posed by PFAS demand that EPA attack the problem on multiple fronts at the same time, and EPA must leverage the full range of statutory authorities to confront the human health and ecological risks of PFAS. As EPA takes action on PFAS under a particular statutory authority, EPA will evaluate the best-available scientific information as well as the specific statutory context when determining the scope of its action. EPA is currently not developing an Agency-wide definition of PFAS.

In 2021, the Organisation for Economic Co-operation and Development (OECD) published a report that recommended the following broadened definition: "PFASs are defined as fluorinated substances that contain at least one fully fluorinated methyl or methylene carbon atom (without any H/Cl/Br/I atom attached to it), i.e., with a few noted exceptions, any chemical with at least a perfluorinated methyl group (–CF3) or a perfluorinated methylene group (–CF2–) is a PFAS." With that definition, the OECD aimed to recognize the diversity of PFAS comprising chemicals with many different molecular structures and properties, and from there, individual regulators might do different things.

The report also stated that "individual users may define their own working scope of PFASs for specific activities according to their specific needs by combining the general definition of PFASs with additional considerations (e.g., specific properties, use areas)." The NDAA also has a standard definition similar to OECD, which is used by EPA in certain mandates under the NDAA. Defining PFAS is not straightforward, and different contexts may warrant different definitions. It is important to think about what each regulatory body means when we say that something is or is not a PFAS.

EPA recognizes the conceptual benefits of having a consistent and inclusive definition, but also believes that narrowing the scope of particular regulatory or other actions to a less expansive subset of PFAS can enable EPA to take actions more quickly and in a more targeted and appropriate manner based on available information. EPA is also focusing on developing PFAS categories to inform risk management through treatment and removal. EPA coordinates its PFAS work to define and categorize PFAS through the Agency's PFAS Council, which coordinates across EPA offices and Regions.

27. **For each EPA program office, which PFAS chemical(s) is/are EPA currently prioritizing for study or regulation?**

Response: EPA's planned actions to address PFAS are described in EPA's October 2021 *PFAS Strategic Roadmap: Commitments to Action 2021-2024*,[4] and further specified in EPA's Semiannual Regulatory Agenda.[5] The PFAS covered by each Roadmap action are specific to each action, and a brief accounting of each (*in italics*) is provided below.

[4] https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024
[5] https://www.epa.gov/laws-regulations/regulatory-agendas-and-regulatory-plans

- Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances; Community Right-to-Know Toxic Chemical Release Reporting ("Enhance PFAS reporting under the Toxics Release Inventory") (proposed rule spring 2022)
    - *This action is specific to the PFAS added to Toxics Release Inventory (TRI) consistent with the Fiscal Year 2020 National Defense Authorization Act.*
- Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the TRI pursuant to Section 7321(d) of the 2020 National Defense Authorization Act ("Enhance PFAS reporting under the Toxics Release Inventory") (proposed rule winter 2023)
    - *This action is specific to the PFAS described in section 7321(d)(2) of the FY20 NDAA.*
- Reporting and Recordkeeping for Perfluoroalkyl or Polyfluoroalkyl Substances Under Section 8(a)(7) of the Toxic Substances Control Act (TSCA) ("Finalize new PFAS reporting under TSCA Section 8") (final rule fall 2022)
    - *EPA proposed the following structural definition: "any chemical substance or mixture that structurally contains the unit R-(CF2)-C(F)(R')R". Both the CF2 and CF moieties are saturated carbons. None of the R groups (R, R' or R") can be hydrogen." EPA is currently reviewing public comments on this and other issues as the Agency works to finalize the rule by the end of this year.*
- Per- and polyfluoroalkyl Substances (PFAS): Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) National Primary Drinking Water Regulation Rulemaking ("Establish a national primary drinking water regulation for PFOA and PFOS" (proposed rule fall 2022, final rule fall 2023)
    - *EPA expects to propose a proposed National Primary Drinking Water Regulation for PFOA and PFOS. As EPA undertakes this action, the Agency is also evaluating additional PFAS and considering regulatory actions to address groups of PFAS. Going forward, EPA will continue to analyze whether National Primary Drinking Water Regulation revisions can improve public health protection as additional PFAS are found in drinking water.*
- Clean Water Act Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category ("Restrict PFAS discharges from industrial sources through a multi-faceted Effluent Limitations Guidelines program") (proposed rule summer 2023)
    - *EPA has been conducting a PFAS multi-industry study to inform the extent and nature of PFAS discharges. Based on this study, EPA is taking a proactive approach to restrict PFAS discharges from multiple industrial categories. The specific PFAS EPA may address via rulemaking will depend upon the results of the studies EPA is undertaking.*
- Designating PFOA and PFOS as CERCLA Hazardous Substances ("Propose to designate certain PFAS as CERCLA hazardous substances") (proposed rule summer 2022 and final rule summer 2023)
    - *EPA expects this action to be specific to PFOA and PFOS.*

- PFAS-Related Designations as CERCLA Hazardous Substances ("Propose to designate certain PFAS as CERCLA hazardous substances") (Advance Notice of Proposed Rulemaking summer 2022)
    - *EPA is taking this action to seek public input on whether to similarly proposed to designate other PFAS, in addition to PFOA and PFOS.*
- Initiate rulemaking to evaluate whether PFOA, PFOS, PFBS, and GenX should be listed as Resource Conservation and Recovery Act (RCRA) Hazardous Constituents (proposed rule summer 2023)
    - *EPA expects this action to be specific to PFOA, PFOS, PFBS, and GenX.*
- Definition of Hazardous Waste Applicable to Corrective Action for Solid Waste Management Units (proposed rule winter 2023)
    - *EPA expects this rulemaking to clarify that that the definition of hazardous waste found in RCRA section 1004(5) is applicable to corrective action for releases from solid waste management units.*

PFAS actions that EPA has announced since release of the PFAS Strategic Roadmap are further described at https://www.epa.gov/pfas/epa-actions-address-pfas.

28. **Currently, there is no existing method to permanently destroy PFAS compounds after their removal from the environment, meaning every treatment technique available for mitigating PFAS in drinking water generates some sort of waste stream on the backend. Which destruction methods are being studied by EPA at this time?**

Response: A key PFAS priority for EPA is to evaluate and develop technologies for reducing PFAS in the environment. EPA needs new data and information on the effectiveness of different technologies and approaches for removing PFAS from the environment and managing PFAS and PFAS-containing materials to inform decisions on drinking water and wastewater treatment, contaminated site cleanup and remediation, air emission controls, and end-of-life materials management. This information is also needed to better ensure that particular treatment and waste management technologies and approaches do not themselves lead to additional PFAS exposures, particularly in overburdened communities where treatment and waste management facilities are often located.

A key component of this effort is researching the effectiveness of technologies for destroying PFAS. Consistent with the PFAS Roadmap, EPA is working in the near-term to collect data to inform EPA's commitment to develop updated guidance in 2023 on destroying and disposing of certain PFAS and PFAS-containing materials. This past February, EPA released the PFAS Thermal Treatment Database – an online resource that contains more than 2,000 records from 80 different sources about the treatability of PFAS using different thermal processes. EPA created this tool in response to the need for a centralized database to record reliable references for researchers and the general public. This resource is available at https://www.epa.gov/chemical-research/pfas-thermal-treatment-database-pfastt.

EPA is also working collaboratively with its federal partners through the Interagency Policy Committee (IPC) on PFAS, including specific work on accelerating PFAS cleanup and disposal. EPA, DOE, and DOD co-chair an IPC sub-group focused on disposal and destruction. Additionally, the Office of Science and Technology Policy leads a PFAS science strategy team that identifies data gaps and research needs in this area, and EPA is a critical member of this group.

29. **Are there any regulatory or permitting obstacles in place that may actually *impede* the development of PFAS mitigation or destruction methods currently being studied by EPA?**

    Response: EPA is focusing its attention on evaluating and developing technologies for reducing PFAS in the environment from a research and development perspective. The Agency will evaluate these technologies, as appropriate, within subsequent regulatory or policy actions. For example, EPA is working to review or develop effective PFAS treatment technologies for drinking water systems to support EPA's efforts to set drinking water standards for PFOA and PFOS. EPA will evaluate the regulatory or permitting constraints and opportunities of each technology as it undertakes these processes. With respect to waste treatment, EPA is evaluating available authorities to require hazardous waste combustion facilities to test emissions from thermal treatment of PFAS-containing waste, which could help EPA to obtain data essential to evaluating the effectiveness of this technology.

30. **Has EPA examined alternative financial mechanisms to incentivize public-private collaboration on the study and development of different methods of destruction – for example, as a competitive prize or in the form of grant awards?**

    Response: EPA continues to support research and development related to PFAS destruction and disposal. In addition to conducting in house research, EPA has used various financial mechanisms to help advance the science of PFAS destruction and disposal. For example, EPA has collaborated with the U.S. Department of Defense's Strategic Environmental Research and Development Program (SERDP) and others on a challenge to discover new technologies and approaches that have the potential to remove at least 99 percent of PFAS used in Aqueous Film Forming Foam. As a result of this challenge, EPA awarded $60,000 in prize money to winning concepts, and challenge winners had the opportunity to submit winning design concepts to DOD for further testing. Additionally, EPA awarded $6 million through the Science to Achieve Results (STAR) grant program to fund research by eight organizations to expand the understanding of PFAS disposal. More information on these grants is available at https://cfpub.epa.gov/ncer_abstracts/index.cfm/fuseaction/recipients.display/rfa_id/643/records_per_page/ALL

31. EPA's "EJ Action Plan: Building up Environmental Justice in EPA's Land Protection and Cleanup Programs," indicates that environmental justice will become a key consideration in decision-making under the Superfund program. **Does EPA plan to finalize this plan?**

Response: Yes. EPA will finalize this draft report following a pending series of virtual community engagement sessions, which are being planned for summer 2022. Once final, the Superfund removal and remedial programs will follow the plan as it relates to program implementation, as appropriate. The Superfund program has been, and will continue to be, a leader in ensuring that environmental justice concerns are considered and integrated into our decision-making process.

32. **Why has EPA's Office of Land and Emergency Management (OLEM) been the first and only program office to issue an environmental justice plan?**

Response: EPA recognizes that many communities face long-standing environmental justice issues where our waste and land cleanup programs are working. Engaging communities and ensuring residents have a role and voice in the decision-making process for Superfund site cleanups is a critical element of EJ and a cornerstone of the Superfund program. EPA's community involvement work addresses EJ concerns by supporting redevelopment activities and job readiness opportunities. When EPA helps communities envision what a Superfund or brownfield site can become, overburdened and underserved communities can be transformed.

The National Environmental Justice Advisory Council (NEJAC) has expressed a keen interest in the Superfund program and issued a report in 2021 with recommendations on how to integrate EJ in the program's work with communities. In January 2022, OLEM released a draft OLEM-specific EJ plan that reflects the NEJAC recommendations and opened it up for public comment. EPA has also included EJ as a central goal of the Agency's overall multiyear strategic plan. As part of our commitment in this strategic plan, each program and region will craft their own specific EJ implementation plans to ensure that every part of EPA has a coordinated and consistent effort to advance the integration of EJ across all of EPA's policies, programs, and activities.

33. **Does EPA intend to apply the definitions and directions pertaining to environmental justice presented in the OLEM's *EJ Action Plan* Agency-wide?**

Response: EPA will use the public feedback from multiple community engagement sessions planned in 2022 to help determine the best path forward. EPA defines environmental justice in a consistent, uniform way as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. See: https://www.epa.gov/environmentaljustice. The definitions and directions in the OLEM EJ action plan are specific to OLEM's activities. Overall, EPA will rely on the strategic commitments and related definitions and measures in our multiyear strategic plan as the foundation for our efforts to integrate EJ across all of EPA polices, programs, and activities, consistent with the law.

34. **How will EPA continue to meet its statutory obligations to protect public health and the environment in assessing and prioritizing cleanups under Superfund if the**

Administration's new environmental justice directives and definitions do not fully align with statutory requirements?

Response: OLEM's newly released draft Environmental Justice Action Plan and the White House Justice40 Initiative have reinforced OLEM's commitment to enhance our EJ work and will help maximize the benefits our programs deliver to disadvantaged and underserved communities. EPA will continue to follow the rule of law and remain within the bounds of our statutory authority.

35. **Does EPA intend to prioritize sites for listing on the National Priorities List only if they are located in an EPA-determined environmental justice community?**

    Response: EPA will continue to add sites to the National Priorities List (NPL) using the Hazard Ranking System (HRS), which is the Agency's principal mechanism to evaluate hazardous waste sites for placement on the NPL. The HRS inherently includes factors for the fair and equal consideration of EJ populations/overburdened communities. Thus far in FY 2022, 66 percent of the sites EPA has added to the NPL using the Agency's existing process were identified as having potential EJ concerns.

    EPA follows the law when placing sites on the NPL. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) provides three methods for placing a site on the NPL:

    - Sites receiving a HRS site score of 28.50 or greater are eligible for placement on the NPL
    - Each state and territory may designate one site to be added to the NPL
    - The Agency for Toxic Substances and Disease Registry (ATSDR) issues a public health advisory, and other requirements are met, a site may be placed on the NPL

36. The Midcontinent Independent System Operator (MISO) provided comments to EPA related to reliability issues ensuing from EPA's reinterpreted coal combustion residual (CCR) program. Those comments state:[6]

    "Additional closures of generators will worsen what is projected to be an already difficult situation. For example, MISO has experienced an increasing number of hours during the year when supply is barely adequate to cover demand even during non-peak seasons and times of the day. These events, which place MISO in near-emergency or emergency conditions, are the result of the changing resource profile, including a significant number of thermal plant retirements and related increases in planned and unplanned outages… These events and circumstances have become so severe that MISO has filed revisions to its Tariff at FERC to address these challenges."

    PJM Interconnection, L.L.C. (PJM) also provided comments to EPA,[7] stating:

[6] https://www.regulations.gov/comment/EPA-HQ-OLEM-2021-0588-0010

[7] https://www.pjm.com/-/media/documents/ferc/filings/2022/20220325-pjm-comments-to-epa.ashx

"Significantly, close to 29,000 [megawatts] of PJM's generation capacity (accounting for approximately 16% of PJM's capacity resources) may be impacted by the EPA's CCR rule… [the] impacts of outages or retirements in the MISO may have an impact on the PJM system that must be analyzed to mitigate potential reliability concerns. Indeed, in other CCR Rule implementation dockets, MISO has stated that potential reliability issues could result if all, or even some, of the 3.1 gigawatts of capacity involved in the open EPA dockets is lost as the direct or indirect result of the implementation of the CCR Rule. MISO explains that this is because there is little to no excess generating capacity in MISO. Specifically, MISO observed that the '[l]oss of these generators will further tighten supply across the entire MISO region and could exacerbate already dangerously thin coverage of demand in certain subregions in the North and Central Regions of MISO.'"

On March 30, 2022, my office received a response from your staff in response to a letter I had written with Representative McKinley urging EPA to grant extensions to West Virginia plants for compliance with the CCR rule. In that response, EPA staff acknowledged that reliability is a concern EPA will consider while reviewing CCR Part A determinations.

37. **Are you familiar with the reliability concerns raised by MISO and PJM pertaining to the CCR rules and proposed closure timeframes for particular facilities?**

Response: Yes.

38. **What is your response to MISO's and PJM's concerns about grid reliability?**

Response: EPA is currently reviewing these comments and continues to consult with both MISO and PJM in advance of issuing final decisions. EPA proposed that in the event of a denial, facilities would have 135 days to operate until they must cease receipt of waste. During that time, a facility may consult with their Regional Transmission Organization (or balancing authority) to determine if the temporary outage would adversely affect reliability. EPA proposed that in such a case, EPA could authorize continued use of the impoundment.

39. **Which organizations is EPA consulting with regarding whether EPA regulatory actions threaten grid reliability?**

Response: EPA has been, and continues to be, open to engagement with all stakeholders, including reliability organizations. Ensuring that power producers can continue to provide reliable and affordable electricity is paramount, and the electric power industry has repeatedly demonstrated its capability to comply with EPA rules while fulfilling critical electric reliability responsibilities. EPA anticipates constructive engagement and dialogue to identify any specific reliability concerns raised by compliance with EPA rulemaking. Providing state and federal energy regulators, power companies, and grid operators with well-timed information about power plants' environmental obligations can support the kind of planning and investment needed to ensure reliability going forward.

EPA continues to discuss grid reliability with MISO and PJM. EPA will also consult with the Regional Transmission Organizations that operate in the other regions where facilities that have submitted requests for extensions are located; e.g., the Electric Reliability Council of Texas and the Southwest Power Pool.

40. **Given EPA staff's statement in the March 30, 2022 letter referenced above that reliability is a concern EPA will consider, do you commit to granting extension requests for utilities' CCR facilities where needed to avoid potential reliability impacts?**

    Response: In January 2022, EPA proposed a process by which, in the event of a denial, a facility can coordinate with their Regional Transmission Organization to determine whether a temporary outage at the facility would adversely affect reliability. EPA proposed that in such a case EPA could authorize continued use of the impoundment. EPA continues to review the comments on these proposals.

41. **Do you commit to ensuring that compliance with the CCR rule as well as any forthcoming regulations on electric generation will not negatively impact the reliability of electricity?**

    Response: EPA will work to ensure that power producers can continue to provide reliable and affordable electricity, and the Agency will have frequent engagement with the stakeholders most affected by EPA's actions in this area. At the same time, EPA has a statutory responsibility to address the harmful health and environmental impacts resulting from power plant pollution.

42. In January 2022, the Office of Research and Development (ORD) published an external review draft white paper titled "*Cumulative Impacts: Recommendations for ORD Research*" that "presents strategies for conducting research on the cross-cutting priority of cumulative impacts—how the total burden of environmental stressors, both chemical and non-chemical, and their interactions with one another, affect health, well-being, and quality of life." EPA's Scientific Advisory Board (SAB) held a public meeting to review the draft white paper on March 2, 2022. EPA's website states the final EPA report (hereinafter "cumulative impacts report") will be published the third quarter of FY 2022. **What is the current status of this draft white paper?**

    Response: ORD is currently reviewing individual member comments and public comments from the recently completed consultation with the SAB. ORD will make revisions to the draft white paper that reflect the results of the consultation and will post a final white paper after completing internal reviews.

43. **Will ORD seek public comment on the draft white paper beyond the SAB meeting?**

    Response: The EPA SAB conducted a consultation on the draft white paper. The SAB consultation included a public meeting on March 2, 2022, and March 7, 2022, including

the opportunity for written and oral public comment. Please see the Federal Register Notice for more information on public comment https://www.federalregister.gov/documents/2022/01/31/2022-01941/notification-of-a-public-meeting-of-the-chartered-science-advisory-board.

44. **Will EPA address potential impacts of higher food prices and energy costs, as well as the negative impacts of job losses on public health and welfare from its regulations, in the cumulative impacts report?**

Response: The draft report, "Cumulative Impacts: Recommendations for ORD Research," focused on identifying research priorities to strengthen the scientific foundation for assessing cumulative impacts in the context of decision making. The draft report is not itself an assessment of cumulative impacts. It is designed to inform and guide ORD's cumulative impacts research efforts in the coming years.

As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA performs regulatory impact analyses to quantify, when feasible, the likely benefits and costs of certain regulatory options. When relevant to the rulemaking, EPA examines industry compliance costs and impacts. Where permissible and appropriate, EPA takes these costs and benefits into account when choosing a regulatory path.

45. **What is EPA's statutory basis for developing the cumulative impacts report?**

Response: A provision of the Evidence Act, codified at 5 U.S.C. section 312, requires the head of each agency to include in its strategic plan a systematic plan for identifying and addressing policy questions relevant to the programs, policies, and regulations of the agency. The draft report, "Cumulative Impacts: Recommendations for ORD Research," focuses on identification of research needs to inform and guide ORD's scientific research efforts in the coming years, consistent with ORD's mission to conduct research for EPA that provides the foundation for credible decision-making to protect human health and the environment. Generally, the scope of EPA's authority to consider and address cumulative impacts in decision-making depends on the statutory and regulatory context. In some areas, EPA has authority to base permitting, regulatory, or other decisions on cumulative impact considerations.

46. The draft white paper suggests that EPA should consider the impact of non-chemical stressors including "physical factors such as noise, temperature, and humidity and psychosocial factors (e.g., poor diet, smoking and illicit drug use)" in its environmental research. It also suggests that EPA should develop data on non-chemical stressors such as "lack of access to healthcare or greenspace" and "long-term exposure to violence." **How does EPA propose to set environmental regulatory policy with regards to factors like "noise" and "long-term exposure to violence"?**

Response: The draft report is not proposing any environmental regulatory policy. Rather, the draft report "Cumulative Impacts: Recommendations for ORD Research,"

focuses on identifying priorities to improve scientific understanding of cumulative impacts, including how the confluence of problems in a community can exacerbate the health impacts of pollution exposure. Cumulative impacts accrue from interactions between chemical (environmental pollutants) and non-chemical (e.g., noise and long-term exposure to violence) stressors. Non-chemical stressors can have measurable biological impacts that affect an individual's susceptibility to environmental pollution. Different individuals or communities, with different histories of such burdens, may require different levels of interventions to achieve a given level of health outcome. Cumulative impact assessments will inform Agency decisions and may also inform decisions by partners such as other Federal agencies, state, local, and tribal governments, industries, and organizations located in communities, and communities themselves. EPA continues to evaluate its existing authorities, as well as associated science, policy, and legal issues, in order to more consistently integrate cumulative impact considerations in our decision-making.

47. **How will EPA consolidate and evaluate associated data on the factors and stressors identified in the previous question?**

    Response: EPA is developing a framework for considering cumulative impacts in relevant EPA decisions and operationalizing that framework within EPA's programs and activities.

48. **Please produce a list—including date, signee, addressee, subject matter, and project name—of all comments, letters, or other correspondence that EPA has sent since January 20, 2021 to the Federal Energy Regulatory Commission (FERC), Army Corps of Engineers, Department of Interior (including all sub-agencies and bureaus), Department of Energy, and Nuclear Regulatory Commission (collectively, "agencies") regarding EPA's position on, or concerns with, preparation of any environmental impact statement by one of the agencies or under Section 309 of the Clean Air Act. An example of one such letter is the letter from EPA Region 6 to FERC, dated March 10, 2022 and filed March 11, 2022 to Docket No. CP22-21-000, accessible at https://elibrary.ferc.gov/eLibrary/search.**

    Response: Section 309 of the Clean Air Act requires EPA to review and comment on every Federal Environmental Impact Statement (EIS) and to make those comments available to the public. All EPA comment letters are available at: https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.

    In addition, in the interest of public health and the environment, EPA responds to a lead agency's notice of intent to prepare an EIS consistent with the National Environmental Policy Act to help agencies appropriately scope the analysis of the EIS, improving the quality of the document and supporting efficient and effective EIS development.

49. **Please produce a copy of each item listed in response to the question above.**

Response: All EPA comment letters are available at: https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.

50. **Please produce a list—including dates, signee, addressee, subject matter, and project name—of all comments, letters or other correspondence EPA has sent since January 20, 2021 to any state or municipal government regarding environmental justice issues related to a project undergoing permitting review by the state or municipal government. An example of one such letter is the May 7, 2021 letter discussed on EPA's website at https://www.epa.gov/newsreleases/statement-administrator-regan-rmg-permit-denial-city-chicago.**

    Response: In line with EPA's commitment to advancing environmental justice, EPA will engage with state and municipal governments on pending permit applications and will suggest that they conduct cumulative risk assessments when appropriate. EPA will continue to follow these actions as the applications are processed and this may include reviewing the draft permits. EPA also encourages state and municipal governments to engage in meaningful public comment opportunities in their respective processes.

51. **Please produce a copy of each item listed in response to the question above.**

    Response: EPA understands the importance of Congress' need to obtain information necessary to perform its legitimate oversight functions. EPA is committed to working with your staff to accommodate your interests.

52. **Has EPA studied the lifecycle emissions associated with producing more electric vehicles to meet the Agency's proposed light duty vehicle standards for Model Years 2023 to 2026, including emissions associated with critical minerals mining and processing and battery production and assembly whether in the United States or abroad?**

    Response for QFR #52-#55: EPA agrees that topics such as lifecycle analysis, the supply chain, and critical materials for battery electric vehicles are important. EPA will consider these topics and many others as we develop new standards for model year 2027 and later light-duty vehicles. We will continue to work with all stakeholders to better understand these issues, including our colleagues at the Department of Energy who have expertise in a number of these topics.

    In previous EPA regulatory actions to establish or revise GHG emission standards for light-duty vehicles, EPA has included estimates of the upstream and downstream emissions impacts from vehicle electrification. Analysis was performed in the 2012 final rule establishing GHG standards for Model Years 2017 – 2025, in the 2020 final rulemaking for GHG standards for Model Years 2021 – 2026, and in the 2021 final rulemaking for GHG standards for Model Years 2023 – 2026.

53. **If the answer to the preceding question is yes, please provide that analysis.**

    See combined response above.

54. **Has EPA studied the lifecycle emissions associated with producing more electric light-duty vehicles to meet the President's proposed target of 50 percent of all new car and truck sales being electric vehicles by 2030,[8] including emissions associated with additional critical minerals mining and processing and battery production and assembly whether in the United States or abroad?**

    See combined response above.

55. **If the answer to the preceding question is yes, please provide that analysis.**

    See combined response above.

56. **Has EPA evaluated the potential impacts of high market prices for critical minerals and shortages in the availability of those and other materials in meeting the President's goal of reaching 50 percent electric vehicle sales by 2030?**

    Response for QFR #56-#61: Critical minerals provide the building blocks for clean energy technologies like batteries, electric vehicles, and solar panels needed to combat climate change. As we break our dependence on foreign oil and natural gas and move to a clean energy economy, it is essential that we do not trade reliance on one unreliable and unsustainable source for another. The President believes that we can produce more of what we need here at home and do so in a way that adheres to strong Tribal, environmental, and labor consultation standards. On February 24, 2022, the White House announced actions to rebuild America's supply chains, including investing in sustainable domestic production and processing of critical minerals. Additionally, on March 31, 2022, President Biden announced plans to authorize use of the Defense Production Act (DPA) to secure domestic production of critical materials. The DPA will support production and processing of minerals used for large capacity batteries such as lithium, nickel, cobalt, graphite, and manganese.

    EPA has engaged in several activities that focus on critical minerals:

    - EPA established a cross-agency Supply Chain/Critical Minerals Working Group to internally coordinate and respond efficiently to actions stemming from E.O. 14017.
    - EPA is working on domestic recycling of batteries and electronics. Recycling can recover critical minerals and reduce U.S. reliance on foreign sources, protect human health and the environment, and decrease pollution relative to manufacturing with new materials.
    - On June 8, 2022, EPA published three Requests for Information to inform the scope of battery collection best practices, voluntary labeling guidelines, and communication materials for battery producers and consumers about the reuse and recycling of critical minerals from batteries. EPA also plans listening sessions over the next several months for stakeholders on battery reuse and recycling.

[8] https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/05/fact-sheet-president-biden-announces-steps-to-drive-american-leadership-forward-on-clean-cars-and-trucks/

- EPA is participating in the Department of the Interior's Mining Reform Interagency Working Group to ensure that domestic mining meets strong environmental, community, and Tribal engagement standards while improving efficiency of the permitting process.
- EPA is committed to working collaboratively with other Federal agencies, states, and Tribes on environmental review and permitting of critical minerals projects within our regulatory authorities.
- EPA also coordinates with other agencies through multiple forums on issues related to remining and recovery of critical minerals from mine wastes.

57. **Does EPA account for supply chain constraints in its projections about the future sales volumes of electric vehicles and plug-in hybrid vehicles?**

    See combined response above.

58. **If the answer to the preceding question is yes, please describe how. If not, please explain why not.**

    See combined response above.

59. **What volume of critical minerals would be needed between now and Model Year 2026 to produce the electric and plug-in hybrid vehicles necessary to meet the Agency's proposed light duty vehicle standards?**

    See combined response above.

60. **Do you agree that the United States is presently almost completely dependent on China and other countries for many inputs needed to manufacture electric vehicles, including critical minerals and lithium ion batteries?**

    See combined response above.

61. **Do you acknowledge that dependence could take many years to reverse, in particular if EPA regulations accelerate the sales of electric vehicles in the next five years on the demand side and inhibit project development for inputs on the supply side?**

    See combined response above.

62. Since the beginning of this Administration, EPA officials have written to FERC regarding natural gas infrastructure projects. These include a November 24, 2021, letter from EPA's Associate Administrator for the Office of Policy to FERC expressing "strong concerns" with the Commission's environmental review of the North Baja XPress Project (FERC Docket No. CP20-27-000). In its comments, EPA stated the project would lead to $14 billion in climate damages. **Do you agree with that assessment by your Agency?**

Response: Yes.

63. **Do you support the March 10, 2022 letter from EPA Region 6 to FERC regarding environmental review of the CP2 LNG and CP Express project to construct and operate a new liquefied natural gas export terminal in Louisiana and associated infrastructure (FERC Docket No. CP22-21-000 and CP22-22-000)?**

    Response: Yes.

64. **As the Administration is now seeking to increase the volume of U.S. natural gas supplied to allies in Europe, do you plan to retract any past correspondence from EPA to FERC or any other federal Agency that recommends additional environmental review and therefore postponed approval of federal authorizations needed for natural gas projects, including pipelines?**

    Response: No.

65. **Please list all dates and times that you have discussed natural gas pipelines or other infrastructure with FERC Chairman Glick or any other FERC Commissioner since January 20, 2021.**

    Response: In the interest of public health and the environment, EPA will respond to Federal Energy Regulatory Commission's (FERC's) invitation to submit comments on proposed policy updates. EPA provided recommendations to FERC in response to FERC's Notice of Inquiry to Update the Policy Statement for Certifications of New Interstate Natural Gas Facilities (May 26, 2021), and requests for comments on the proposed draft of the Policy Statement for Certification of New Interstate Natural Gas Facilities (April 25, 2022) and proposed draft policy for analysis of Greenhouse Gas emissions for New Natural Gas Facilities (April 25, 2022).

66. **Has EPA started to utilize the funding provided through the FY 2022 omnibus and Infrastructure Investment and Jobs Act related to Class VI injection well permitting, specifically as it relates to state primacy?**

    Response: The IIJA provided $50 million for EPA to create a grant program to support states implementing a Class VI program or support state efforts that would lead to a state receiving primacy. EPA is currently developing this new program. EPA expects to conduct stakeholder outreach this summer to support this effort.

67. **Please provide the fiscal year 2022 spending plan for Class VI funding to the Committee.**

    Response: The BIL provides $50 million in grants to states to support states' efforts to develop programs that lead to primacy (state being the permit authority) for the Class VI wells (geological sequestration of carbon dioxide) permitting program and $25 million, or $5 million per year for FY22-26, for EPA to support permitting of Class VI wells.

Senator Inhofe:

1. **How will you assure every American that EPA's proposed methane tax regulations will not contribute to the elimination of jobs in the fossil fuel sector or increase gas and other energy prices for consumers?**

   Response: EPA's proposed rule supports the American economy by helping companies preserve products that would otherwise be wasted, while having almost no impact on U.S. oil production or prices and minimal impacts on U.S. natural gas production and prices. This proposed rule will sharply reduce air pollution from oil and natural gas facilities, and reduce waste of valuable natural gas, by encouraging the use of innovative methane detection technologies and driving widespread deployment of proven, affordable measures that leading companies and states are already using. The proposed rule will help provide regulatory certainty for oil and gas companies that are under public scrutiny due to methane emissions; maintain America's global leadership in the rapidly growing methane detection and mitigation industry; and conserve vital energy resources. Oil and gas companies and industry associations, and major investors in this sector, have called upon EPA to regulate methane from new and existing oil and natural gas facilities for these reasons.

Senator Cramer:

1. Administrator Regan, it is my understanding the EPA determined eight applications for alternative liner systems under the Coal Combustion Residuals Part B rule were deemed complete by the EPA. EPA's announced intention was to make decisions on those applications by February 2021, yet they still have not been made. The utility companies, including one in my state, are facing uncertainty as they are now being forced to spend millions of dollars to ensure they can maintain operations and not run afoul of other requirements.

   a. **When can the applicants with completed applications expect a decision?**

      Response: EPA is working expeditiously to announce proposed determinations for the seven facilities that have submitted applications for alternative liner systems under the CCR Part B rule. One facility has since withdrawn its application. EPA will announce determinations on the remaining applications over the coming months.

   b. **Why has it taken so long to issue a decision?**

      Response: Existing resources are constrained and may cause significant delays in announcing determinations on the remaining applications. EPA is therefore requesting a $17.5 million increase, including 70 additional FTE in the FY23 President's Budget, to expedite these actions. These new resources would allow

EPA to establish the federal permitting program in a timely manner, ensure proper closure and corrective action at CCR facilities nationwide, expand the regulated universe to 'legacy' units, and process an extensive set of applications that EPA received under the "Part A" and "Part B" CCR rules.

2. Administrator Regan, following Russia's invasion of Ukraine, agriculture markets have been roiled with uncertainty and global food shortage concerns are rampant, particularly in the most impoverished parts of the world. Without substantive efforts by the US to aid the global food supply we risk seeing even more political and social upheaval. Thankfully, the US can play a role in helping to prevent starvation in the developing world. We are a net exporter of agricultural goods and North Dakota produces many of the commodities displaced in the global food supply by Russia's invasion of Ukraine, wheat, barley, sunflowers, and corn chief amongst them. A significant reason the US is a global leader in agricultural production is because of the advancement and innovation of our crop protection technologies which are approved by the EPA. However, farmers are concerned the EPA is currently more focused on penalties and enforcement of its pesticide programs versus approving new products, leaving them in a lurch.

    a. The President's FY23 Budget Request included additional funding for EPA's pesticide programs. Seeing as approval for new pesticides takes two years or more on average, which doesn't include the average of 11 years it takes to get a pesticide from the lab to the EPA for review, **what is the EPA's plan to effectively use these additional dollars to ensure producers have access to the crop protection products they need to stem the global food crisis?**

    Response: The increase of $4.9 million and 10 FTE in the Pesticide program requested in the FY 2023 President's Budget is important for EPA's Pesticides program. EPA has significant responsibility under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to screen new pesticides before they reach the market and ensure pesticides already in commerce are safe. In addition, EPA is responsible for complying with the Endangered Species Act (ESA) and ensuring that federally endangered and threatened species are not unduly harmed when the Agency registers pesticides.

    The requested increase will support the program to address ESA mandates. This is crucial to providing farmers with predictable access to pesticides based on a timeline that EPA sets, rather than one set through litigation, which EPA has faced an extensive amount related to ESA compliance. In other words, the more that EPA can proactively address its ESA obligations, the more the Agency can assure farmers of access to innovative pesticides with a more predictable timeline and without risk that a court will vacate those pesticides for failure to comply with the ESA. The additional funding in the FY 2023 request is the most important means to assist EPA to move toward this goal.

    The requested increase in FY 2023 budget also is critical for the Office of Chemical Safety and Pollution Prevention (OCSPP) pesticide program as it has

continued to operate with a flat level of resources over the past several years. In fact, there are about 30 percent fewer people working in the OCSPP pesticide program than 15 years ago, going from a high of 808 FTE in 2005 to a low of 603 in 2021. Meanwhile, the number and scientific complexity of pesticide submissions have increased significantly. Not having enough staff means that our backlog has been growing because our work is taking us longer to complete. The total number of pesticide actions coming into the Agency has ranged from 10,000 to 20,000 a year since 2004. Currently, EPA faces a backlog of more than 11,000 pending pesticide actions from previous years that are not under the Pesticide Registration Improvement Act.

EPA supports the use of biotechnology to provide new tools for farmers to control pests while reducing pesticide risk. The proposed rule on Plant Incorporated Protectants will help drive innovation by lowering the regulatory burden and ensure that these new tools will not pose unreasonable adverse effects on the environment, including to human health. This regulatory relief will reduce the time and money needed for developers to get these products to market and provide an incentive for development. EPA is targeting final rule completion towards the end of 2022.

3. Administrator Regan, the state of North Dakota, specifically the Department of Environmental Quality, is working on its planning efforts to ensure the state stays on its "glide path" to achieving natural visibility in national parks and designated wilderness areas by 2064. It is my understanding, like much of what EPA is tasked with doing, the states are in the driver seat with a lot of flexibility to craft their plan and it sounds like the state is getting close to finalizing a draft plan. However, they've indicated some groups or individuals seem to think spending more money to get an imperceptible improvement now is necessary which would be pretty painful, to the point of even closing some facilities with remaining useful life.

    a. **Do you agree with my assessment that states have flexibility under the program and specific controls for specific sources are not mandated?**

    Response: States have flexibilities as described in the Clean Air Act, the Regional Haze Rule, and relevant guidance. While specific controls for specific sources are not mandated, there is an expectation that states engage in the required analyses, including selecting sources for consideration of the statutory factors to assess reasonable progress in plans for the second planning period.

    b. **Was Regional Haze ever envisioned to put facilities out of business?**

    Response: No.

    c. Recently you made comments to reporters at CERAWeek stating "If some of these facilities decide that it's not worth investing in [control technologies] and you get an expedited retirement, that's the best tool for reducing greenhouse gas

emissions." **In light of those comments, will the EPA be using the Regional Haze program as a greenhouse gas reduction program?**

Response: No. The Regional Haze program is designed to improve visibility in our nation's treasured national parks and wilderness areas, including the Grand Canyon, Yosemite, the Great Smokies, Shenandoah, and Theodore Roosevelt. In implementing this important Clean Air Act program, EPA seeks to further that statutory purpose in a manner that conforms to the statute, the Regional Haze Rule, and relevant guidance.

4. Last month, the Senate EPW Committee held a hearing on energy security and heard from Jim Matheson, CEO of the National Rural Electric Cooperative Association (NRECA). He testified indicating any actions which mandate an energy sector transformation over an unreasonable timeline could have significant reliability impacts on the electric grid. And that any transition must recognize the need for time and technology and be inclusive of all energy sources – including coal for many parts of the country – to maintain reliability and affordability. Yet, the host of regulations you plan to impose on the power sector – and on coal specifically – seems directed at harming this critical baseload and affordable power source and forcing the early retirement of as many coal units as possible. This is despite recent reports by national and regional reliability entities – such as NERC and MISO – that early coal retirements will strain reliability.

    a. **Have you consulted with NERC and with the regional reliability organizations on the impact to reliability that will result from any additional early coal retirements?**

    b. **If not, why not?**

    c. **If not, will you commit to formally working with those reliability organizations if you pursue such a "suite" of regulations?**

    d. **If so, does the EPA share their concern regarding potential impacts to grid reliability? How will their concerns be reflected in policies coming from the EPA?**

    Response to all subparts of this QFR: EPA has a responsibility to advance policies to ensure that all Americans are protected from the power plant pollution that harms public health and our economy. These harms all too often fall most heavily on overburdened and vulnerable communities. EPA is committed to using EPA's authorities to address these impacts, as our nation's environmental laws require. EPA is also equally committed to doing that in a transparent and well-coordinated way that is consistent with delivering affordable and reliable electricity for families and businesses. As a matter of course in Agency rulemakings and per relevant Federal executive orders and guidance, EPA performs RIA to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation

to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidelines for economic analyses.

EPA has a history of delivering public health and environmental protections consistent with protecting grid reliability. Both past and present rules reflect robust resource adequacy and reliability considerations in our analyses, as well as implementation safeguards to serve as a backstop if any tensions between reliability and environmental requirements were to arise. As we move forward with actions to reduce the climate, public health, and environmental impacts of the power sector, EPA looks forward to engagement with power companies and other stakeholders to understand and consider reliability issues facing them in their states and regions.

EPA will continue to actively engage directly with the electricity sector including system operators, state regulators, DOE, FERC, and other parties that have the know-how and responsibility for ensuring reliability and affordability. EPA is committed to facilitate compliance with electric reliability standards by providing state and federal energy regulators, power companies, and grid operators with well-timed information about EPA actions, and by establishing clear and achievable compliance deadlines. The electric power industry has repeatedly demonstrated its capability to comply with EPA rules while fulfilling critical electric reliability responsibilities**.**

Senator Boozman:

1. This summer, EPA and the Corps are planning to hold ten virtual regional roundtables to discuss WOTUS. However, information has not been shared with the public other than the names of the "winning" roundtables.

    a. **Will you explain how these winners were selected?**

    b. **When should we expect the selection criteria to be made public?**

    c. **How did you ensure that small entities and other underrepresented areas were given a fair shot at participating?**

    d. **Will you commit to opening up a docket so that members of the public that you didn't select to participate will still be able to share their views?**

    One Response to all subparts of this QFR: EPA, along with the Department of the Army, hosted ten virtual roundtables that gave stakeholders from a range of perspectives an opportunity to engage and discuss their experiences with implementing the definition of "waters of the United States." Public information about the roundtables' dates and times, participants, livestreaming options,

selection criteria, and other related matters can be found on EPA's website at https://www.epa.gov/wotus/public-outreach-and-stakeholder-engagement-activities. These roundtables took place from May 9, 2022, to June 24, 2022.

EPA publicly identified the selection criteria used to select the ten roundtables in the two Federal Register notices that it published in October and November 2021, which can be found at (https://www.epa.gov/wotus/public-outreach-and-stakeholder-engagement-activities), as well as in press releases, such as one dated October 13, 2021 (https://www.epa.gov/newsreleases/epa-army-announce-regional-roundtables-wotus). In these publicly available documents, EPA encouraged roundtable participation by all stakeholders, and is pleased to report that all of the roundtables included participants from small entities and other underrepresented areas. Furthermore, a small business organized one of the roundtables. Last year, EPA opened a docket on the proposed "waters of the United States" rule that provided all members of the public an opportunity to share their views (https://www.epa.gov/wotus/public-outreach-and-stakeholder-engagement-activities#Public%20Opportunities%20on%20the%20Proposed%20Rule); that docket closed on February 7, 2022.

Senator Sullivan:

1. The Administrator mentioned Alaskan Superfund sites and EPA efforts several times during the hearing. **Can he elaborate?**

   Response: The conveyance of lands to the Alaska Native Corporations under the Alaska Native Claims Settlement Act (ANCSA), passed 50 years ago, faces ongoing issues, including contamination prior to Alaska Native ownership. The Alaska Native Village Corporation Association (ANVCA) has expressed significant concerns regarding the anticipated timeline to reach resolution, citing that it will take many generations. As former owner/operators at the time of contamination, Federal agencies other than EPA in some cases are utilizing authority under the CERCLA and Executive Order 12580 to conduct cleanups. ANVCA estimates these cleanups will cost tens of billions of dollars. EPA may also have certain authority to conduct CERCLA response actions on these lands. EPA is committed to working with other Federal agencies to advance the cleanup of contaminated Alaska Native Corporation Lands. In March 2022, the EPA launched an initiative through the Arctic Executive Steering Committee to accelerate efforts of several federal agencies to cleanup sites on these lands.

2. The Save Our Seas 2.0 Act (PL 116-224) was signed into law in December 2020 and had a number of EPA actions to combat marine debris, including establishing infrastructure programs, updating strategies and authoring reports and studies. **Can the Administrator provide an update to EPA's implementation of PL 116-224?**

Response: Pursuant to Section 301, Save Our Seas 2.0 requires EPA to develop a "Strategy for Improving Post-Consumer Materials Management and Water Management." EPA expects to put out a public comment version of this strategy via Federal Register notice in fall 2022, with the final strategy to be issued in winter 2022. EPA is also leading, in collaboration with the Interagency Marine Debris Coordinating Committee (IMDCC), the Section 132 "Report on Microfiber Pollution." IMDCC intends to issue a draft report for public comment via Federal Register notice in August 2022 and plans to finalize the report by the statutory deadline of December 2022. Save Our Seas 2.0 Sec. 111 (b) directs EPA to partner with foreign governments and NGOs to help countries improve their solid waste management efforts, as well as engage in international fora to promote US policy. EPA is working with other federal agencies, including NOAA, the State Department, and USAID, to address marine litter with existing resources and authorities. EPA will bear a large portion of the responsibility to implement provisions of a global plastic pollution prevention agreement and is therefore working closely with these agencies and others to negotiate a global legally binding agreement on plastic pollution by 2024.

3. **When can the Committee can expect EPA to issue the ballast water standard rule making mandated by the Vessel Incidental Discharge Act?**

   Response: EPA's proposed rule was published in October 2020, and the Agency intends to finalize the rule in fall 2023.

4. The City of Ketchikan Public Utilities provides drinking water to its customers from the protected water sources of Ketchikan Lakes and Granite Basin. The water system operates under filtration avoidance regulations defined in the EPA Surface Water Treatment Rule promulgated in June 1989. For decades, Ketchikan has been extremely proactive in improving the treatment process and operation of the system and has expended close to $10,000,000 since 2009 to comply with regulations. The City is working to secure a Limited Alternative to Filtration (LAF) with the EPA and Alaska Department of Environmental Conservation (ADEC) for municipal water treatment. While the City has faith in both the Compliance Order By Consent process, and the support of ADEC working with EPA, I ask that as the EPA works on this issue they keep in mind that determinations leading to additional filtration facilities could potentially lead to extreme costs on a small community without any demonstrable health benefit. **Will you keep this in mind as your team continues to work productively on this matter?**

   Response: EPA Region 10 and headquarters engineers, scientists, and attorneys have supported an open exchange of information with the Alaska Department of Environmental Conservation (ADEC) following Ketchikan's detection of fecal coliform bacteria in their source water. We understand that Ketchikan is working to demonstrate that they meet criteria for the rarely used Limited Alternative to Filtration provision within the SDWA. As the primacy Agency, ADEC will take the lead in evaluating Ketchikan's submittal by Ketchikan. EPA has a concurrence role. We anticipate the opportunity to review Ketchikan's studies and ADEC's determination in the next few

months. EPA is committed to working with your staff, ADEC, and Ketchikan on this important issue.

5. EPA published the National Recycling Strategy in November 2021, which I understand is the first in a series of recycling strategy documents. **Can you elaborate on how chemical recycling fits into this strategy and its implementation?** To clarify, the term "chemical recycling" would encompass processes that would help build toward a circular economy, which would exclude processes such as incineration and waste-to-energy.

   Response: The *National Recycling Strategy: Part One of a Series on Building a Circular Economy for All* (Strategy) serves as the first part and foundation for a series of strategies that will help improve recycling practices and generate a circular economy. The Strategy highlights the actions needed in partnership with government, industry, and others to transform our recycling system, address climate change, and reduce the environmental impacts on already overburdened communities. The second part of the circular economy series, expected to be released in draft form later this year, will focus on plastics. EPA also will develop and implement additional strategies in key areas with the greatest potential to reduce the lifecycle impacts of materials, including critical minerals and batteries; textiles; and construction and demolition debris. Chemical recycling has been included as part of the conversation EPA is having through the Strategy implementation. EPA will continue to monitor the research being conducted around chemical recycling and determine if this technology is appropriate to include in our strategies and plans in the future.

QUESTIONS FOR THE RECORD SUBMITTED TO MICHAEL REGAN,
ADMINISTRATOR
FROM CHAIRMAN LEAHY (VERMONT)

LAKE CHAMPLAIN

I want to thank you and the administration for once again including $20 million in funding in the President's budget to support the EPA's Geographic Program for Lake Champlain. The Lake – Vermont's "Great" Lake – is critical not only to our state's economy, but to the entire Champlain Valley. New and ongoing threats, however, from climate change, invasive species, water contamination, and more, demand continued investment in restoration and preservation.

Question. You and I have spoken about the success of the EPA's Lake Champlain Program. It is a model for other geographic area programs across the country. What future investments do you believe are necessary to ensure that Lake Champlain remains protected, and with it, the economies that rely on the Lake?

Answer. The Infrastructure Investment and Jobs Act, or Bipartisan Infrastructure Law (BIL) invests $40 million in Lake Champlain which will allow us to extend additional support throughout the basin to support underserved and disadvantaged communities and increase resiliency in the face of climate change through programs to conserve important lands and access to them, improve aquatic organism passage, reduce flooding, and restore the function of floodplains in the basin. This investment in Lake Champlain and other geographic programs across the country will help clean up waters and accelerate our work in special places like Lake Champlain. Support for activities to address aquatic invasive species through the Vessel Incidental Discharge Act (VIDA) will also serve to protect the important ecosystem of the Lake Champlain basin. Potentially detrimental species, such as the round goby that is currently threatening to enter the basin, could have far-reaching impacts on the fishery and water quality that the economy of the basin depends on. On top of their base appropriations, these expanded and multi-year resources will accelerate the programs' long-standing work to improve water quality, enhance ecosystem and community resilience, conduct environmental education and outreach, and more. EPA is committed to being a strong partner to support their growth and to working with Congress and key local stakeholders to ensure effective, efficient, and equitable implementation.

BURLINGTON HIGH SCHOOL CONTAMINATION:

When you last appeared before this Committee, I spoke with you about the high levels of PCBs found in Burlington High School shortly before the 2021-2022 school year was set to begin, forcing the school to relocate in order to remediate these toxic chemicals – and construct a new high school, free of toxins on the site. The cost of the project is staggering.

Question. Burlington is Vermont's largest and most diverse city, with the greatest number of disadvantaged students in the State. Congress has provided billions of dollars through the bipartisan infrastructure to support projects like this one. What support can the EPA provide, beyond technical assistance, for dire situations such as the need for environmental remediation at Burlington High School, which is attended by over 1,000 Vermont students?

Answer. EPA is committed to improving children's environmental health in schools and has provided information on and implemented programs to address PCBs. EPA continues to engage across state, tribal, and local government partners, and their stakeholders, to reduce or eliminate PCB contamination, particularly in schools and environments with children or susceptible sub-populations as well as disadvantaged and environmental justice communities, so that all Americans are safe from environmental and health hazards, including exposures to PCB-containing materials.

The FY 2023 President's Budget includes an increase of $1.7 million to provide some additional capacity for the Agency to help assess the risk of PCB exposure at local schools and buildings. EPA support for capacity building and improved ventilation in schools serving communities with environmental justice concerns are options for funding under the American Rescue Plan (ARP) Act. In FY 2021, EPA launched the Healthy Learning Environments in Low-Income and/or Minority Communities grants program to address children's environmental health in schools and childcare settings using ARP funds. EPA would welcome the opportunity to work with you on ways to address environmental and health hazards in schools. Our staff from Region 1 have been supporting Burlington and will continue to do so.

LAKE CHAMPLAIN BASIN PROGRAM

Question. The Lake Champlain Basin Program was created by the Lake Champlain Special Designation Act of 1990. It brings together partners in Vermont, New York, and Quebec to coordinate and fund solutions to the challenges faced by the Lake Champlain Basin. For over 30 years, the program has addressed phosphorus pollution, toxic substances, biodiversity, and aquatic invasive species. Today, these interconnected issues are exacerbated by the effects of the climate crisis. Considering the growth of the Lake Champlain Basin Program since its establishment in 1990, its reauthorization in 2002, in addition to the increasing complexity of challenges in the Lake Champlain watershed, would you agree that it is timely to consider reauthorizing the program expediently?

Answer. Thank you for your leadership on efforts to protect and restore this resource of national significance. EPA is one of several agencies that jointly administer the Lake Champlain Basin Program. Lake Champlain is a precious resource, and as such EPA stands ready to provide technical assistance to Congress on any effort to reauthorize the program to account for changes in the 20 years since the last reauthorization. EPA Region 1 and OGC have provided technical support to Chairman Leahy's staff on the proposed reauthorization and are available and willing to respond to any additional requests for assistance.

Question. I am currently working on legislation to again reauthorize the Lake Champlain Basin Program. What resources, both fiscal and technical, is the EPA prepared to bring to the table to ensure the future protection and preservation of Lake Champlain?

Answer. The Bipartisan Infrastructure Law (BIL) provides $40 million to address climate change mitigation and adaptation, phosphorus loadings, invasive species, and toxic substances that threaten Lake Champlain's water quality and ecosystem health. EPA has historically provided technical support to the Lake Champlain Steering Committee and its partners through requests for assistance, funding of the New England Water Pollution Control Commission

(NEIWPCC), the Lake Champlain Basin Program (LCBP), and the states of New York and Vermont, and provides technical insight and guidance as members of various LCBP subcommittees, the Executive Committee, the Steering Committee, and the Lake Champlain Federal partnership. As the program has grown, EPA is committed to increasing its support of the program through the addition of technical and support staff in EPA Regions 1 and 2. EPA also coordinates on aquatic invasive species with the Great Lakes National Program Office through the Vessel Incidental Discharge Act (VIDA) and provides technical support as necessary. EPA is committed to continuing to support the Lake Champlain program and would welcome the opportunity to work with you on future protection and preservation.

QUESTIONS FOR THE RECORD SUBMITTED TO MICHAEL REGAN,
ADMINISTRATOR
FROM SENATOR FEINSTEIN (CALIFORNIA)

CALIFORNIA COAST DUMPING CLEANUP

I continue to be deeply concerned about industrial waste dumped off the California coast between the 1930s and 1960s that still remains in our ocean. This toxic waste includes DDT – a chemical so harmful it was banned in 1972.

We now know that oil and gas-related chemicals are also likely to have been dumped there as well. Scientific studies point to decades of detrimental impacts to the marine life, including cancer in dolphins, sea lions and California Condors.

The survey conducted by NOAA and partners in March 2021 mapped approximately 36,000 acres at 3000 feet depth of the sea floor. This area, known as dumpsite #2, revealed around 26,000 dumped barrels of industrial waste, and over 100,000 other debris objects. We also know based on historical record, there are a total of 14 known offshore dumpsites off the California coast. This is alarming.

Both EPA and NOAA have informed my office a number of times that they have more questions than answers on this problem and a follow-up survey mission is the best next step to understand the state of the barrels, as well as the chemicals in them and around them in the water and on the sea floor. Yet, more than a year later, neither agency has provided a funding estimate or including funding in the Fiscal Year 2023 budget proposal despite repeated requests by my staff, nor a plan of action for next steps. Lastly, EPA has yet to fulfill its commitment to a public website for the public to learn more and understand the scope of the issue.

Question. Administrator Regan, I ask, once again, that EPA and its partners act with urgency and prioritize this issue. Can you describe the next steps EPA will take to help us better understand the impacts of this historic ocean dumping?

Answer. This historic toxic dumping is a major problem off the California coast. Although the United States outlawed this practice decades ago, major problems and risks from these lingering chemicals still exist. Based upon scientific studies, EPA agrees that these deep-water sites need to be further examined. EPA is collaborating with state and federal agencies and key institutions, including the Scripps Institute of Oceanography and the University of California Santa Barbara, to identify a strategy to investigate this area and the potential risk to human health and the marine environment.

Question. Does EPA have the statutory authority it needs to monitor or conduct testing on the impacts of the DDT and other toxic waste that was dumped decades ago but remains active in our environment?

Answer. CERCLA provides discretionary authority under Sections 104(a) and 104(b) to undertake monitoring and testing of releases or threatened releases of hazardous substances, such as DDT and to respond to releases or threats of release, including releases into United States territorial waters or ocean waters with natural resources under the exclusive management authority of the United States. The US Coast Guard is delegated lead response authority for

releases in the coastal zone, with EPA serving in a support capacity, subject to further agreement between the Agencies.

BAY DELTA WATERSHED

I appreciate the President's budget proposal investing in geographic ecosystem restoration programs nationwide including San Francisco Bay Delta, however, I am disappointed that San Francisco Bay appears to be the only program – when compared to at least seven others – not to have received a funding increase despite demonstrated need of the region and success of the program.

The San Francisco Bay Delta watershed system is one of the largest in the nation. It covers 75,000 square miles and includes the largest estuary on the west coasts of North and South America. It also contains the only inland delta in the world. In addition, the watershed provides a primary source of drinking water for 25 million Californians, irrigation for 7000 square miles of agriculture, and includes important economic resources such as California's water supply infrastructure, ports, deepwater shipping channels, major highway and railroad corridors, and energy lines. In the Delta specifically, declining water quality and increasing demand for limited water resources are the subject of intense review and planning to protect this valuable resource for the future.

The watershed includes a diversity of fresh water, brackish water, and salt water aquatic habitats. Several endangered and threatened aquatic species are found here including delta smelt, steelhead, spring run Chinook salmon, winter run Chinook salmon, and others. Two-thirds of California's salmon pass through these waters, and at least half of the state's Pacific Flyway migratory water birds rely on the region's wetlands.

Question. Administrator Regan, can you provide an explanation as to why San Francisco Bay did not receive an increase from Fiscal Year 2022 funding levels in your budget proposal for Fiscal Year 2023 while at least seven other programs received double or more, including similar programs such as Puget Sound and South Florida?

Answer. EPA is committed to continue working with Congress, as well as our federal and state partners, to protect human health, support economic growth, and improve environmental conditions for Americans that live and work in the San Francisco Bay Delta.

The FY 2023 President's Budget was formulated before enacted levels were fully available for the San Francisco Bay Program and, therefore, reflected a $3 million increase when compared to the FY 2022 Annualized Continuing Resolution Levels as contained in the request.

SOUTH COAST AIR QUALITY DISTRICT

For over 20 years, the South Coast Air Quality District has been working to meet federal Clean Air Act standards. Since these standards were set in 1997, California has led the nation in taking action against pollution and climate change.

While I am appreciative of the EPA's action to reinstate California's waiver so it can set its own fuel emissions standards, as well as actions to increase standards for heavy-duty trucks and regulate hydrofluorocarbons, I think we can both agree that the federal government must do more to limit emissions, including from ocean-faring cargo ships, trains, and out-of-state trucks

and airplanes—all of which affect the South Coast's air quality. Until it does so, it is unreasonable to expect that the state will meet their federal air quality goals, and still more unreasonable to penalize air quality districts for non-attainment. Further, the withholding of highway funds in pursuit of this penalty will only make it more difficult for the district to complete projects which would help them reach their attainment goals.

Question. What is the EPA doing to fast-track emissions standards for interstate and international travel and commerce, including ships, trains, trucks, and airplanes?

Answer. EPA recognizes the significance of the public health challenges that California faces and is acting on a range of fronts to reduce emissions from the transportation sector. That includes: a March 2022 proposal to reduce oxides of nitrogen from Heavy Duty Vehicles, for which EPA intends to finalize standards by December 2022; evaluating whether emissions from piston-engine aircraft operating on leaded fuel contribute to air pollution that endangers public health and welfare, then issuing a proposal this year for public review and comment, and taking final action in 2023; and leveraging the significant investments in the Bipartisan Infrastructure Law's Clean School Bus program to achieve air quality improvements in communities and help drive the market for electric heavy duty vehicles. In addition, EPA is engaged as an active member of the U.S. Government delegation at the International Maritime Organization working on programs to reduce air pollution from ocean-going vessels and at the International Civil Aviation Organization working on programs to reduce air pollution from aircraft. Refer to the proposed rule https://www.epa.gov/regulations-emissions-vehicles-and-engines/proposed-rule-control-air-pollution-aircraft-engines.

Question. What plans does the EPA have to help the South Coast Air Quality District meet their attainment goals, given large sources of federally preempted sources of pollution in the area?

Answer. EPA appreciates these air quality challenges and shares your concern about reducing pollution from sources needed to reach attainment. A coordinated, collaborative federal-state partnership is critical to address these long-standing air pollution problems. EPA's Office of Air and Radiation (OAR) and Region 9 leadership are working closely with the South Coast Air Quality Management District (SCAQMD) and the California Air Resources Board (CARB) to address these time-sensitive issues regarding Clean Air Act obligations and sanctions. OAR and Region 9 have established a team that began meeting with SCAQMD and CARB to develop a common understanding of the area's ozone attainment challenges, potential federal and state solutions, required timelines for achieving compliance with ozone air quality standards, and potential triggers of federal sanctions. EPA is committed to determining how EPA, our colleague agencies, and our state and local counterparts can move forward to ensure attainment and maintenance of the ozone NAAQS.

Question. What is EPA's long-term enforcement posture to ensure air quality districts are able to meet their goals and avoid inappropriate penalties in future situations?

Answer. EPA's desire is always to help air quality planners meet the requirements and the goals of the Clean Air Act collaboratively, and we will continue to provide support to state and local compliance monitoring and enforcement programs with the goal of achieving the reductions envisioned by the regulatory framework designed to improve air quality.

RENEWABLE FUELS

Currently, the EPA allows biomass cleared from areas that are "at risk from wildfire" to be classified as a renewable fuel. However, that definition relies on outdated information that may not include many locations in California that are actually areas of high wildfire risk according to the U.S. Forest Service, as I mentioned in my December 2021 letter to you. If vegetation cleared from wildfire hazard areas could be classified as renewable biomass under EPA rules, it would help reduce wildfire risk in these areas, improve forest health, and make use of cleared vegetation.

Question. Will you update this guidance with a more recent U.S. Forest Service Wildfire Hazard Potential map to more accurately reflect California's wildfire risk?

Answer. It is clear that climate change and extreme weather are exacerbating wildlands fires across the country. As requested in your December 2021 letter, EPA has been working with the U.S. Forest Service and interested stakeholders to evaluate if such a change is permissible under the Clean Air Act. Any changes to EPA's current approach will need to go through notice and comment rulemaking to amend the existing regulations.

As the EPA processes additional pathways for biofuels under the Renewable Fuel Standard, including from canola and rapeseed oil, I urge the agency to be as aggressive as possible with other pathways. The agency's expertise is critical to evaluate new transportation fuels lifecycle greenhouse gas benefits.

Question. What is the current status for additional pathways that is EPA considering, such as biomass and biogas for electric or fuel cell vehicles or those technologies that pair direct air capture and/ or carbon capture and sequestration?

Response: EPA intends as part of an upcoming rulemaking to propose new regulations that would allow renewable electricity to participate in the RFS program, consistent with Congressional intent to expand renewable fuel use. EPA has met with multiple stakeholders over several months to gather input on the upcoming proposal, which will provide details regarding how program implementation would work.

WILDFIRES

Wildfires in California have become increasingly prevalent and intense in recent years. While the science exploring the environmental impacts of these fires is ongoing, comparatively little attention has been paid to the health impacts for Californians resulting from the resulting poor air quality. Researchers in my state have attempted to quantify these impacts and found that wildfire smoke was linked to 11,500 deaths in California between 2008 – 2018. Another recent study estimated that the 2020 California wildfires resulted in an additional 20,000 COVID-19 cases as people were more likely to stay indoors. As smoke from California wildfires can potentially impacts states as far away as New York, more funding is needed to study the impacts of these wildfires across the nation.

Question. Administrator Regan, what is the EPA doing to fund research on the environmental and health impacts of wildfire smoke? Have you explored using the EPA STAR program to prioritize this research?

Response: EPA works to mitigate the public health impacts of both wildfire and prescribed fire smoke events. EPA provides trusted information about air quality conditions and health impacts before, during and after fire and smoke events. EPA also conducts research and builds the tools needed to understand the impacts of fire on air quality, water quality, and health.

EPA researchers are working to increase understanding of who is most at risk for adverse health effects of smoke; what strategies and approaches are effective in communicating impacts of wildfires on air quality and health to reduce smoke exposures and protect public health; how best to measure and model wildfire emissions and related air quality; and the impacts of wildland fire on surface waters and drinking water quality. This work will help citizens and local governments to understand and minimize the impact of wildfire smoke on public health.

EPA is also working with tribes, states, and other federal agencies to address wildfires. EPA is expanding the Wildfire Smoke Air Monitoring Response Technology (WSMART) program to increase the capacity of air agencies and air resource advisors affiliated with the Interagency Wildland Fire Air Quality Response Program to expand air quality monitoring during wildfire smoke events.

EPA Wildfires Research is expected to be funded at approximately $3.0M in FY 2022. A $4.8 million increase to address wildfires research is being requested in FY 2023 for a total investment of $7.8M.

In 2021, as part of its Science to Achieve Results (STAR) program, EPA awarded $9 million in grant funding for researchers to address behavioral, technical, and practical aspects of interventions and communication strategies to reduce exposures and health risks of wildland fire smoke. To improve public health, the institutions receiving these grants are conducting research to understand what actions might be effective for reducing exposures to wildland fire smoke and how best to communicate these actions to various groups.

QUESTIONS FOR THE RECORD SUBMITTED TO MICHAEL REGAN,
ADMINISTRATOR
FROM SENATOR CHRIS VAN HOLLEN (MARYLAND)

CHESAPEAKE BAY

One of the most important roles for the EPA Administrator and EPA in the restoration of the Chesapeake Bay is to demonstrate leadership and a commitment to a restored Bay. We are only a short 3 years away from our 2025 commitments under the Chesapeake Bay Agreement to meet our mutual goal of clean water. The Chesapeake Bay agreement identifies the pollution reductions necessary to meet water quality standards in the Bay and EPA's role in achieving those reductions. Given that 86% of the remaining pollutant load reductions must come from agriculture, it is imperative that the EPA work with USDA to ensure sufficient financial and technical assistance are provided to Bay region farmers so that we can get the job done.

Question. Ensuring that we are on the right pathway to meet our rapidly approaching 2025 clean-up deadline is critical; I appreciate that the EPA has used a "most effective basins" approach to get the most bang for the buck in critical areas of the watershed. How does the EPA plan to continue that approach, and how can EPA work with USDA to direct agricultural conservation funds to where they will be most helpful in the Bay in order to get the maximum load reduction possible?

Answer. Nutrient pollution is a serious challenge affecting water quality across the country. Making progress on reducing excess nutrients and improving water quality will require all the tools available, including regulatory, non-regulatory and market-based programs to promote collaboration among urban and agricultural sectors. EPA uses a host of tools to support our partners, including states, tribes, and farmers, to reduce excess nutrients in watersheds using regulatory, non-regulatory, market-based, and other collaborative approaches. EPA is committed to working with USDA among others.

EPA will continue to focus funding in the "most effective basins" (MEB) of the watershed to reach the goals of a restored Bay. At the same time, EPA will work with our partner agencies to accelerate the implementation of the most cost-effective best management practices in reducing nutrient and sediment pollution within the "most effective basins." This year over $22 million is being targeted through MEB funding, $15 million of which comes from additional funding provided through the Bipartisan Infrastructure Law.

EPA, USGS, and the University of Maryland developed the "Priority Agricultural Watersheds" mapping tool to inform where to target federal funding to agricultural conservation practices to reduce the greatest nitrogen and phosphorus loads to the tidal Chesapeake Bay. Since 2010, this regional screening tool has been used by EPA and USDA in their funding ranking criteria to target EPA Chesapeake Bay grants and USDA Farm Bill program funding for the greatest agricultural load reductions to the tidal Chesapeake Bay. In July 2021, EPA and USGS updated and enhanced this mapping tool with the most recent USGS SPARROW model and State agriculture-impaired streams data. More recently, EPA has updated its Most Effective Basins map, which will provide complementary information for the Priority Agricultural Watersheds.

EPA and USDA's Natural Resources Conservation Service continue to coordinate federal funding to support implementation of priority agricultural practices in priority watersheds to

achieve the greatest nutrient reductions to the Chesapeake Bay. Additionally, EPA, NRCS, and USGS developed recommendations to enhance monitoring to document water-quality improvements to conservation practices. In 2021, EPA, NRCS, and USGS published reports summarizing their coordination efforts and recommendations:

- Report NRCS EPA Ag Conservation Funding Team (https://www.chesapeakebay.net/channel_files/41834/report_nrcs_epa_ag_conservation_funding_team.pdf) and
- Report NRCS EPA USGS Federal WQ Monitoring Team (https://www.chesapeakebay.net/channel_files/41834/report_nrcs_epa_usgs_federal_wq_monitoring_team_122220.pdf).

An example of how EPA and NRCS are working together to make it easier for Chesapeake Bay agricultural partners to access federal funding for their conservation work is the Decision Memo they signed on June 21, 2021. This memo allows agricultural partners to use Chesapeake Bay grants as "match" (partner contribution) for the NRCS Regional Conservation Partnership Program (RCPP) projects. RCPP projects can be as high as $10 million and require an equal amount of match from applicants. Allowing applicants to use EPA's Chesapeake Bay grants as match has been a game-changer for applicants and made them more competitive for these national funds.

Question. The Bipartisan Infrastructure Law provided $238M for the Chesapeake Bay Program through 2026 on top of annual appropriations, this will supercharge our efforts to clean up the Bay. Earlier this month, EPA announced the allocation of $40 million in first-year funds with $25 million administered through the NFWF Chesapeake Stewardship Fund, and $15 million for distributed to the watershed states and D.C. for Most Effective Basins**.** Is it the Agency intent allocate funding at the same ratio in FY23?

Answer. EPA is grateful to Congress for including the Chesapeake Bay Program in the Bipartisan Infrastructure Law (BIL) . The Agency is committed to timely investment of all infrastructure funds, knowing this will allow the program to accelerate actions to restore and protect the Chesapeake Bay and its watershed. The Chesapeake Bay Program will continue to support the Most Effective Basins grants to jurisdictions and is gathering input this summer to ensure future allocations are aligned with the highest priority needs. The Bay Program will continue supporting the competitively awarded Small Watershed Grants (SWG) and Innovative Nutrient and Sediment Reduction Grants (INSR) which are up for competition again this year. A request for proposals is planned for later in 2022.

CLEAN AIR

For decades, the State of Maryland has worked diligently to address pollution to meet air quality standards and to protect the health of our constituents. In Baltimore, the rate of asthma-related hospitalizations is among the highest in the country – three times higher than the U.S. average. These pollutants lead to increased pulmonary and cardiovascular-related illnesses and disproportionately impact communities of color. Ensuring these communities receive the resources they need is critical and I thank you for the work the EPA has done to expand the efforts of air pollution control agencies to reduce greenhouse gases, yet more is needed to be

done. On August 11, 2021, the Center for Biological Diversity filed suit against EPA Administrator Michael Regan in the District Court for the Northern District of California Oakland Division. Plaintiffs allege that EPA has failed to undertake certain non-discretionary duties under the Clean Air Act in Detroit, Anne Arundel County, and Baltimore County and fails to meet National Ambient Air Quality Standards for sulfur dioxide levels.

Question. What efforts has the EPA made to address these urgent issues and support states like Maryland in meeting our clean air standards? How will EPA support the Office of Air and Radiation ability to regulate and reduce pollution from the power generation and transportation sectors?

Answer. Under the Clean Air Act's "good neighbor" provision, EPA provides a backstop to state actions by promulgating Federal Implementation Plans (FIPs) when a state fails to submit, or EPA disapproves, a good neighbor SIP. EPA has promulgated several national-scale rulemakings to fulfill its FIP obligations to address interstate pollution for ozone and fine particulate matter NAAQS, including the Clean Air Interstate Rule (CAIR); the Cross-State Air Pollution Rule (CSAPR); the CSAPR Update; and most recently, the Revised CSAPR Update. Emissions reductions from electric generating units (EGUs) were achieved through these rules via regional allowance trading programs. Before these actions, EPA had regulated certain non-power plant sources (along with power plants) in the 1998 "NOx SIP Call." EPA's recently proposed transport rule builds upon these prior rulemakings and extends the proposed emissions reductions to industrial sources beyond the power sector and to several states not included in prior national-scale actions.

Regarding areas failing to meet the National Ambient Air Quality Standards for sulfur dioxide (SO_2), EPA, on January 28, 2022, issued a finding that the Detroit, MI, nonattainment area failed to attain the SO_2 standard by the attainment date. EPA is working to finalize a federal implementation plan for this area by the consent decree deadline of September 30, 2022. Regarding the Anne Arundel/Baltimore County nonattainment area, EPA has a consent decree deadline of October 31, 2022, to take final action on the state's SO_2 attainment plan for this area and is working with the state to meet this deadline.

EPA is also moving expeditiously to reconsider the 2020 decisions to retain both the ozone and the particulate matter (PM) National Ambient Air Quality Standards (NAAQS). This approach adheres to rigorous standards of scientific integrity and provides ample opportunities for public input and engagement. These reconsideration decisions reflect EPA's commitment to a rigorous NAAQS review process, with a focus on protecting scientific integrity. An important part of that is to ensure the Clean Air Scientific Advisory Committee (CASAC) is fully equipped to provide me the advice needed to make the best decision possible. EPA moved to reinstate pollutant specific CASAC panels to assist the CASAC in ongoing reviews, including in these two reconsiderations.

Power plants remain the largest stationary sources of harmful pollutants like nitrogen oxide and sulfur dioxide and are the nation's second largest source of greenhouse gas pollution. EPA is committed to using the full scope of its authorities, including its Clean Air Act authority, to regulate greenhouse gas emissions from power plants, to protect communities, and to reduce the pollution that is driving climate change. In March, EPA outlined its approach to working with the power sector to continue to deliver affordable, reliable power while reducing pollution to protect public health. EPA is working to develop a set of clean air, clean water, and waste disposal standards. The approach includes engaging industry and working in a transparent

manner, protecting public health and overburdened communities, and pursuing an integrated approach that provides a framework for investment decisions.

EPA is moving forward on critical actions to address pollution from the power sector. Building on a robust foundation of public engagement, we plan to finalize the Mercury and Air Toxics Standards Appropriate and Necessary Finding this year and propose a review of the MATS Risk and Technology Review in early 2023. We will continue to conduct outreach in 2022 on greenhouse gas rules for new and existing power plants and propose Clean Air Act section 111 rules in early 2023. These steps are an important part of the Administration's commitment to advance standards to ensure that all Americans are protected from the power plant pollution that harms public health and our economy. They also demonstrate our commitment to achieving a cleaner power sector, and to doing so in a way that provides regulatory certainty and a long-term planning horizon for companies, state regulators and investors; that maintains reliable and affordable electricity for families and businesses; and that creates jobs and economic opportunities. It is critical to the success of these efforts that EPA receive the FY 2023 President's Budget request. For example, the President's Budget requests an increase to support the regulation of stationary sources of air pollution through developing and implementing emissions standards, regulations, and guidelines. The FY 2023 President's Budget also includes a request for additional resources for NAAQS review work and related implementation activities, such as development of guidance, review of SIPs and permits, and air monitoring and analyses.

PFAS

Question. PFAS contamination in our nation's waterways pose enormous health risks to communities across the country, and many private drinking water wells currently don't have any standards. How does EPA plan to ensure that communities on private wells aren't being harmed by PFAS? Will there be support for well remediation?

Answer. In October 2021, EPA Administrator Michael Regan released the PFAS Strategic Roadmap – EPA's whole-of-agency approach to tackling PFAS. The Roadmap sets timelines by which EPA plans to take specific actions and commits to bolder new policies to safeguard public health, protect the environment, and hold polluters accountable. The actions described in the PFAS Roadmap each represent important and meaningful steps to safeguard communities from PFAS contamination. Cumulatively, these actions will build upon one another and lead to more enduring and protective solutions.

EPA recognizes that PFAS contamination has impacted communities across the country, including communities and households that rely on home drinking water wells. The Agency is taking action to use the best-available science to tackle PFAS pollution, protect public health, and provide critical information quickly and transparently, while also providing infrastructure funding to help communities—especially disadvantaged communities—deliver safe water. In addition to direct actions to protect drinking water under the Safe Drinking Water Act (SDWA), EPA is bringing deeper focus to preventing PFAS from entering the environment in the first place (through actions under the Toxic Substances Control Act and the Clean Water Act) and to broadening and accelerate the cleanup of PFAS contamination to protect human health and ecological systems.

The SDWA's regulatory and financing programs are generally designed to assist public water systems, which the law defines as a water system that has at least 15 service connections or that regularly serves at least 25 individuals. The SDWA does provide authority to use funds from key financing programs (including the SRFs and the new BIL Emerging Contaminants grant program) to connect households on private wells to public water systems. Funds from these programs may be used to connect households currently on private wells to create a new public water system as defined in the SDWA, and to install appropriate treatment solutions to reduce PFAS in the new public water system. The SDWA authorities for the SRFs and for the new BIL Emerging Contaminant Program do not allow for states to fund projects for private well remediation.

EPA includes information about steps that people who get their water from a home drinking water well can take to reduce exposure to PFAS in drinking water on the agency's website at Meaningful and Achievable Steps You Can Take to Reduce Your Risk (https://www.epa.gov/pfas/meaningful-and-achievable-steps-you-can-take-reduce-your-risk). EPA also maintains a website at Private Drinking Water Wells (https://www.epa.gov/privatewells) that educates well owners more broadly on topics such as the importance of testing home drinking water wells and shares information on protecting health, including links to other federal and non-profit websites that host additional educational materials and resources to help these well owners. EPA highlighted these resources for the public when releasing health advisories for four PFAS on June 15, 2022.

EPA's Office of Water has committed to setting enforceable limits in drinking water for PFOA and PFOS, with a proposed rule coming this fall and a final rule by the end of 2023. It has also committed to setting binding discharge standards (effluent guidelines) for different categories of industry that discharge PFAS. EPA issued a final PFBS assessment in April 2021, after addressing scientific integrity concerns with a version of the assessment released on January 19, 2021. EPA finalized a similar assessment for GenX in 2021 and is also moving ahead to assess the toxicity of additional PFAS. Finally, EPA is taking action to improve Clean Water Act permitting and to deepen our understanding of PFAS in fish tissue and working closely with USDA, the risks of PFAS in biosolids.

QUESTIONS FOR THE RECORD SUBMITTED TO MICHAEL REGAN,
ADMINISTRATOR
FROM SENATOR CAPITO (WEST VIRGINIA)

STAKEHOLDER MEETINGS

Question. What is your procedure for handling stakeholder meeting requests when you are unable to take the meeting? Are the meetings that you cannot attend delegated to be handled by other US Environmental Protection Agency (EPA) staff?

Answer. Engagement and transparency are important values to me. That said, when scheduling conflicts or other limits prevent my ability to accept meeting requests, EPA usually offers a surrogate who has relevant expertise.

FULL-TIME EQUIVALENTS STAFFING

Question. How many full-time equivalents (FTEs) are currently employed by EPA? What is the average number of EPA FTEs that reported for work in person in the EPA headquarters buildings daily from April 1, 2022 to May 31, 2022? What is the average number of EPA FTEs that reported for work in person in each EPA regional office daily from April 1, 2022 to May 31, 2022? Please break down by regional office. What is the average number of EPA FTEs that reported for work in person at any other EPA facility daily from April 1, 2022 to May 31, 2022? Please break down by facility.

Answer. As of June 1, 2022, EPA has 14,450 onboard employees. EPA currently projects utilizing 14,313.8 full time equivalents (FTE) through the end of FY 2022 across annual appropriations, user fee, and supplemental appropriation accounts, including the Bipartisan Infrastructure Law.

EPA recently expanded existing workplace flexibilities, such as telework and flexible schedules, so the EPA workforce will operate in a hybrid manner. EPA also provides an option for full-time remote work only if all duties are portable. These flexibilities are implemented according to policy and adherence to established eligibility criteria and provide for better work-life balance and prioritize the well-being of our workforce.

EPA completed its phased re-entry to the workplace in late April, with all personnel who report to an EPA location returning per their work schedule. EPA anticipates that a hybrid workforce may lead to reduced facility lease and utility costs in outyears as EPA works to right-size our footprint. The FY 2023 President's Budget request resources to support this rightsizing and enable EPA to expand the use of collaboration technology to support a hybrid work environment.

QUESTIONS SUBMITTED BY REPRESENTATIVE PINGREE

STAFFING

I fully believe that EPA's mission to protect human health and the environment can only be successful if it is appropriately resourced and fully staffed. After years of decline in FTE levels, I understand that you have made a renewed focus on hiring.

As FTE levels have declined, Congress has also expected more from the Agency. With the passage of important legislation such as the America's Water Infrastructure Act, the Water Infrastructure Improvements for the Nation Act, and most recently, the Infrastructure Investment and Jobs Act, we are placing greater responsibility and expectations on the EPA.

As the same time the hiring climate remains challenging, and the federal government must do more to attract the best and brightest.

Question: How is the EPA attracting the best candidates to fill its most important roles, and in the meantime, how are you helping current staff manage their workloads?

Answer: EPA is working to attract the best candidates by creating an accommodating and inclusive work environment that supports evidence-based research to fulfill EPA's mission of protecting human health and the environment. The Agency is focused on strengthening the workforce, retaining critical expertise, and capturing institutional knowledge.

EPA's efforts to strengthen its workforce in FY 2023 will include offering a Senior Executive Service Candidate Development Program and expanding its intern program. Additionally, the Agency will continue to increase outreach to diverse networks such as veterans, Historically Black Colleges and Universities, and Returned Peace Corps Volunteers and continue to use all available hiring authorities, including Schedule A, and recruitment incentives.

The Senior Executive Service Candidate Development Program will train and foster the next generation of executive leadership, focusing on diversity, equity, inclusion, and accessibility so future executives reflect the diversity of the American people and are effectively trained in the skills necessary to lead a diverse workforce that operates in a hybrid work environment. The expanded paid intern program will work to strengthen talent and workforce acquisition with approximately 180 four-month internship opportunities across all EPA Headquarters and Regional Offices. As appropriate, eligible interns will be converted to permanent federal service based on performance and completing program requirements.

EPA helps current staff manage their workloads by providing employee-facing support services. Through its Future of Work plan, the Agency implements flexible workplace policies such as remote work status to certain positions and provides maximum telework and work schedule flexibilities. EPA also supports staff by working to reset and repair relationships with unions and involve them in a collaborative way, promoting the Agency's and the unions' shared goal of positive and equitable treatment of newly empowered employees.

Finally, the Agency's workforce strategy continues to be guided by evidence-building activities and data-driven decisions. As part of Evidence Act and Learning Agenda implementation, EPA continues to refine workforce diagnostic tools and dashboards. Through understanding of mission critical competencies, existing skill sets, and potential skills gaps across the Agency, EPA's leaders can foster knowledge transfer and succession management, supporting current and future workforce generations.

ENFORCEMENT AND COMPLIANCE

To protect human health and the environment, we must go after polluters and hold them accountable. I was glad to see robust funding for your enforcement, compliance, and regulatory work in the request.

I also understand that the funding you have received for these efforts over the years have been inadequate and more can be done to increase inspections and prioritize enforcement cases, for example.

Question: In addition to increased funding, what are other ways that this committee can support your enforcement, compliance, and regulatory work?

Answer: Providing full funding for FY 2023 will allow the Agency to modernize our national enforcement and compliance data systems. This modernization will help expand compliance monitoring and enforcement efforts allowing us to better support states, tribes, and local governments and the public's need for information while we continue to integrate environmental justice (EJ) and climate change goals throughout all aspects of the enforcement and compliance assurance program. This effort answers the President's call to strengthen enforcement of environmental violations with disproportionate impact on overburdened or underserved communities and combat the climate crisis with bold action.

For FY 2023, the House Appropriations Committee could consider report language directing those agencies in receipt of significant Infrastructure Investment and Jobs Act (IIJA) funding account for the environmental review and permitting roles of supporting agencies that were not directly or proportionately funded through IIJA. IIJA created a gap in capability on environmental review and permitting. EPA is working with Office of Management and Budget (OMB), Council on Environmental Quality (CEQ), and the Federal Permitting Improvement and Steering Council (FPISC) to pursue additional resources to be responsive to this increase in workload through Inter Agency Economy Act Agreements. Support from this committee would assist with this essential work.

Question: Are there additional resourcing needs in this area that were not included in the budget request?

Answer: The FY 2023 budget request would provide strong funding for EPA to enforce our Nation's environmental laws, so all Americans have equal access to clean air, clean water, and healthy communities. Achieving our goals will require adequate, sustained funding, combined

with a coordinated whole-of-government approach to make sure the federal government is speaking with one voice and leveraging the partnerships we have with our state, tribal, and local officials. In addition, it will be important to consider funding needs associated with emerging priorities by EPA and Department of Homeland Security to stop the illegal imports of hydrofluorocarbons (HFCs), EPA's efforts to address the improper management of Coal Combustion Residuals, and efforts to address risks posed by per- and polyfluoroalkyl substances (PFAS). EPA will provide more information on those growing priorities in future budget discussions.

For FY 2023, the House Appropriations Committee could consider report language directing that agency in receipt of significant IIJA funding account for the environmental review and permitting roles of supporting agencies that were not directly or proportionately funded through IIJA. IIJA created a gap in capability on environmental review and permitting. EPA is working with OMB, CEQ, and FPISC to pursue additional resources to be responsive to this increase in workload through Inter Agency Economy Act Agreements. Support from this committee would assist with this essential work.

BIOSLUDGE AND BIOSOLIDS

Question: Please provide a summary of the current activities and resources dedicated to research and remediation of PFAS in biosludge.

Answer: The top priority of EPA's Biosolids Program is assessing the potential human health and environmental risk of pollutants found in biosolids, including PFOA, PFOS, and other PFAS. EPA has developed a risk assessment approach that is scheduled to be reviewed by the Science Advisory Board (SAB) later this year. EPA's Biosolids Program currently has three FTE, and the FY 2022 budget is $370,000.

EPA also is working on several other efforts related to PFAS in biosolids, for example:

- EPA and the Department of Defense are collaborating on PFAS method development and validation that includes the biosolid matrix. For information on the first single-lab validated method see the following link: https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas. Information on PFAS methods, sampling, data analysis and laboratory certification can be found using the following link: https://www.epa.gov/water-research/pfas-analytical-methods-development-and-sampling-research.
- EPA's Office of Research and Development (ORD) research efforts on destruction and disposal of PFAS can be found using the following link: https://www.epa.gov/chemical-research/pfas-innovative-treatment-team-pitt and https://www.epa.gov/chemical-research/technical-brief-and-polyfluoroalkyl-substances-pfas-incineration-manage-pfas-waste.
- ORD research projects and grants specific to PFAS/biosolids projects are listed here: https://www.epa.gov/biosolids/biosolids-research-epa.

Question: Are the resources in the FY23 budget request sufficient to address this issue? If not, please provide the additional need with justification.

Answer: While the FY 2023 President's Budget request makes a notable investment in increasing our capacity to address PFAS in biosolids, we expect this area will require an ongoing, long-term, consistent level of effort from EPA in future years. There is a strong need for current information regarding emerging contaminants in biosolids to ensure the safety of billions of kilograms of biosolids per year that are land applied, landfilled, or otherwise disposed.

ENVIRONMENTAL JUSTICE

This Committee was able to support the Administration's Environmental Justice goals through historic funding in our fiscal year 2022 bill. In addition to the funding received in the American Rescue Plan, we will be able to advance our environmental justice goals to levels we have never seen.

Question: How are you ensuring that the funds meet the goals of the Administration's Justice40 Initiative while guaranteeing timely disbursement and execution of funds?

Answer: EPA is committed to not just meeting but exceeding the President's mandate the at least 40 percent of the benefits of certain programs flow to communities with environmental justice (EJ) concerns. To advance this mandate, EPA is expanding our initial effort which focused on the six pilot programs identified in the Interim Justice40 guidance issued by the White House to now include any program funded by the Infrastructure Investment and Jobs Act (IIJA) that meets the criteria of Justice40. EPA is committed to exceeding the 40 percent goal for both the investments and the benefits of the programs included in Justice40 and will provide the maximum level of transparency possible of where those investments and benefits touch down on the ground in communities. The American Rescue Plan provided an incredible catalyst to EPA's efforts to advance EJ throughout multiple programs that provide support and resources on the ground to communities with EJ concerns and their partners. EPA's EJ program is actively involved in the Agency's larger efforts to implement our IIJA-funded programs within the Justice40 framework while simultaneously expanding our EJ program, including a significant increase in the grant and technical assistance we provide directly to communities and their partners, to provide a significantly more robust ability to integrate EJ across all EPA's policies, programs, and activities.

QUESTIONS SUBMITTED BY REPRESENTATIVE JOYCE

METAL SHREDDING PLANTS

I am supportive of advancing domestic recycling efforts, especially for metal, given the environmental and economic benefits. Recycling scrap metal helps us reduce pollution, limit waste, and reuse materials.

Question: Does EPA support scrap metal recycling and is the Agency supportive of advancements in metal recycling technology applications, more specifically metal shredder plants?

Answer: EPA supports efforts to increase capacity to responsibly recycle our used materials as part of efforts to advance a circular economy. Increasing domestic recycling efforts can create jobs, lead to more productive reuse of valuable materials, increase the value of American exports, and support a vibrant American recycling and refurbishing industry. If done properly and safely, we can increase domestic recycling efforts, strengthen domestic and international markets for viable and functional used products, and protect human health and the environment.

Over 250 metal recycling facilities are currently operating with a shredder in the United States. These facilities are often located in densely populated, overburdened communities. These facilities can negatively impact these communities, including impacts to human health, ecosystem services, property values, aesthetic and recreation values, and land productivity itself. EPA seeks to ensure that scrap and recyclables are managed in an environmentally sound manner, especially in communities with environmental justice concerns.

Question: Does EPA understand the necessity of metal shredding plants with respect to infrastructure both as a processor of obsolete infrastructure like bridges, roads, etc., and as a provider of raw materials to steel mills and foundries?

Answer: EPA supports efforts to responsibly recycle used materials. Recycling reduces the amount of waste sent to landfills and incinerators, conserves natural resources, and prevents pollution by reducing the need to collect new materials.

Question: What does EPA believe will happen to the roughly 15 million vehicles that reach the end of their life annually if vehicle and appliance shredding plants, including plants that use the latest pollution controls, are prohibited from operating?

Answer: EPA does not anticipate and has not evaluated such a scenario.

Question: Is the Agency willing to work with the metals recycling industry given the industry's contribution to the Administration's infrastructure and circular economy goals?

Answer: EPA is committed to working with all stakeholders to help advance recycling in the United States. EPA is collaborating across all levels of government, including Tribal Nations, and with public and private stakeholders to achieve its circular economy goals.

ENVIRONMENTAL JUSTICE

I recognize that Environmental Justice (EJ) is a key priority for the Administration and EPA. I also recognize the importance of balancing EJ actions with beneficial economic and environmental opportunities in these impacted communities.

Question: For this Administration, are Environmental Justice concerns always going to take precedence over the established zoning policies of most major cities, which seek to locate businesses in proximity to others of a similar nature?

Answer: EPA defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA's work on environmental justice seeks to ensure everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process. Communities with environmental justice concerns often face multiple pollution challenges, such as mobile source pollution from nearby highways, air, and water pollution from permitted industrial activity, and legacy pollution at toxic waste sites. As part of its mission to protect the environment and public health of all Americans, EPA has the responsibility to try to reduce localized pollution in these overburdened communities and ensure its policy decisions do not add to that burden.

Environmental Justice and civil rights concerns will continue to be a central consideration in EPA's policies, programs, and activities. This includes our engagement with and support for local government partners whose local land use, planning, zoning, and permitting decisions have an impact on public health and environmental protection in communities.

Question: In what cases should the longstanding industrial nature of certain urban areas be considered on equal footing with residential uses that arose later in these areas?

Answer: EPA is committed to achieving its mission to protect the public health and the environmental quality of all communities. The history of how communities have developed is an important element of appreciating and responding to the unique challenges faced by communities. EPA's Environmental Justice Program is centered on a philosophy of collaboration of all partners to advance health and environmental protection along with economic revitalization. This collaboration includes local governments and industry.

Question: Do the Administration's goals to limit emissions from mobile sources not dictate that recyclable materials should be transported the shortest distance possible from their point of origin to processing locations? How can this goal coexist with the way EPA has interpreted and tried to implement Environmental Justice actions under this Administration?

Answer: EPA is working to advance recycling market development approaches to strengthen markets for recycled materials at the state, regional, and local levels, including smaller markets and in rural areas. If done properly, recycling efforts can create jobs, lead to more productive reuse of valuable materials, increase the value of American exports, support a vibrant

American recycling and refurbishing industry, and protect human health and the environment. However, processing facilities can negatively impact the communities in which they are located, including impacts to human health, ecosystem services, property values, aesthetic and recreation values, and land productivity itself. Thus, EPA seeks to ensure that scrap and recyclables are managed in an environmentally sound manner, especially in communities with environmental justice concerns.

HARMFUL ALGAL BLOOMS – FISCAL YEAR 2022 AND SUPPLEMENTAL FUNDING

I was proud that in fiscal year 2022 Congress once again provided, on a bipartisan basis, a significant increase for the Great Lakes Restoration Initiative (GLRI). Unfortunately, despite recent GLRI investments, we still have a significant amount of work ahead of us to address threats to the Lakes, including harmful algal blooms (HABs).

In my backyard, Lake Erie is especially prone to the dangerous impacts of HABs given it is the warmest, shallowest, and has the most shoreline development of all the Great Lakes.

Question: While I recognize the Agency is focusing on delisting Areas of Concern, given the issues Ohio Governor Mike DeWine outlined in his January 2022 letter to the Agency, please explain how EPA plans to prioritize and distribute GLRI dollars to reduce toxin-producing harmful algal blooms and improve water quality in the Great Lakes?

Answer: EPA will continue to fund nutrient reduction activities, including nutrient reduction activities in the Lake Erie watershed, at levels consistent with or higher than past funding levels. With the additional funds from the Infrastructure Investment and Jobs Act, EPA and its partners expect to increase funding for nutrient reduction activities by about 50% in FY 2022 (when compared to FY 2021).

Question: How does the fiscal year 2023 budget request build on these efforts?

Answer: Based on the FY 2023 President's Budget request and the additional funds from the Bipartisan Infrastructure Law, EPA and its partners expect to maintain similar funding for nutrient reduction activities in FY 2023 as in FY 2022.

Question: How does EPA work with states and stakeholders to incentivize farmers to adopt best management practices to prevent the overapplication of nutrients and runoff? Is headquarters working with all the regions to push science-based cost-effective practices?

Answer: Under Section 319 of the Clean Water Act, states, eligible tribes, and territories are required to identify sources of nonpoint source pollution and to develop a 5-year nonpoint source (NPS) management plan that identifies where the state will prioritize NPS pollution control work for next 5 years. Having a current NPS management plan allows these entities to be eligible for grant funding to implement their plan. In states where nutrients are a major source of NPS pollution identified in their plan, this funding is used to incentivize local communities, watershed

councils, and conservation districts to implement conservation practices and nutrient management strategies to control nutrient runoff and prevent the overapplication of fertilizer.

About 40% of Section 319 funds address agricultural runoff and these projects are often coordinated with USDA. USDA funds can be used to pay for on-farm conservation practices that reduce polluted runoff. Section 319 funds can be used for critical needs that USDA cannot fund, such as support for Conservation Districts to develop locally driven watershed plans, demonstrate new approaches to addressing water quality concerns, and reach out to landowners to encourage adoption of high-impact conservation practices where they can best improve water quality.

EPA provides oversight of this funding via EPA grant guidelines for spending Section 319 funds https://www.epa.gov/nps/319. EPA also provides technical assistance to Section 319 grantees and other stakeholders addressing NPS nutrient pollution through tool development, technical guidance, education, outreach, and direct technical support for agricultural NPS projects.

Under the GLRI, EPA provides funding to states and via the Natural Resources Conservation Service (NRCS) to support local on the ground projects, with an emphasis on soil health and nutrient management conservation practices. These investments have increased the number of acres in conservation and have ramped up farmer-led outreach on nutrient management in Green Bay (WI), Saginaw Bay (MI), western Lake Erie, and the Genessee River (NY) watersheds.

HARMFUL ALGAL BLOOMS- OIG REPORT

In September 2021, the Agency's Inspector General released an evaluation noting that EPA did not have an agency-wide strategy for addressing Harmful Algal Blooms (HABs), despite Congress appointing the EPA Administrator as the Federal leader for actions to reduce, mitigate, and control freshwater HABs.

Question: What corrective actions has EPA taken to date and what corrective actions does the Agency plan to take to respond to the IG report and create an agencywide HAB strategy? How will these efforts help reduce HABs nationwide and their impacts on human health and the environment?

Answer: In the corrective action plan in response to the OIG report, EPA agreed to four corrective actions and has completed one already (i.e., the revised numeric nutrient criteria recommendations for lakes and reservoirs). There is work ongoing for the other three corrective actions. The first is to develop an agencywide strategic plan to help direct EPA's efforts to maintain and enhance a national HABs program. The second is to develop a strategic plan to develop additional revised numeric nutrient criteria recommendations. And the last is to evaluate the available information on human health risks from exposure to cyanotoxins in drinking water and recreational waters. These are all ongoing efforts that are on track to meet the deadlines EPA committed to in the corrective action plan.

Question: Is there funding included in the fiscal year 2023 budget request to support this work and for EPA to establish a national HAB event-monitoring and tracking system?

Answer: In FY 2021, EPA released revised ambient water quality criteria recommendations under the Clean Water Act to address nutrient pollution in lakes and reservoirs, and the FY 2023 President's Budget Request includes funding to address this important issue. The FY 2023 request will allow EPA to assist states, territories, and authorized tribes in the development of numeric nutrient criteria through the Nutrient Scientific Technical Exchange Partnership & Support (N-STEPS) Program and support science research related to HABs.

DOMESTIC ENERGY PRODUCTION

Given the ongoing war in Ukraine and the soaring energy prices we are seeing across the U.S., it is now more apparent than ever that we need to be ramping up, rather than limiting, development of our domestic energy resources. Instead of relying on foreign countries, like Russia, to meet our energy needs, we should be promoting an all-of-the-above strategy to support American industries and help secure our energy independence.

Question: How does the fiscal year 2023 request support responsible U.S. energy development, protect jobs in the fossil fuel industry, and keep energy prices low?

Answer: Oil and natural gas play an important role in our economy. However, its production and use also cause pollution and contribute to climate change. EPA's mission is to protect human health and the environment, and our FY 2023 budget request reflects that mission.

As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. When relevant to the rulemaking, EPA examines industry compliance costs, impacts on fuel and energy prices, and impacts on employment.

Question: In drafting new regulations, is EPA ensuring that new rules are cost-effective, do not duplicate other laws or reporting requirements, and allow the industry to utilize alternative technologies, if applicable? How is the Agency ensuring that proposed regulations do not negatively impact supply chains and domestic energy needs?

Answer: As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency's guidelines for economic analyses. When relevant to the rulemaking, EPA examines industry compliance costs, impacts on fuel and electricity prices, and availability of alternative technologies. EPA takes these factors into account when choosing a regulatory path.

Question: As EPA works on forthcoming methane regulations, can the Agency commit to working with the domestic oil and gas industry to develop a workable regulation to ensure the newest and latest detection and mitigation technologies are deployed?

Answer: EPA has proposed to update and strengthen standards for methane and volatile organic compounds from new, modified, and reconstructed oil and natural gas facilities, as well as to issue the first nationwide emission guidelines for states to follow in limiting methane from existing sources. The proposal reflects proven, cost-effective measures that several states and leading companies are already using to minimize oil and natural gas pollution, as well as innovative technologies that allow methane emissions to be detected more quickly and cost-effectively than ever before. EPA received over 470,000 comments on the November 2021 proposal. EPA does not want to prejudge the outcome of this regulatory process. EPA looks forward to ongoing and robust stakeholder engagement as the Agency continues to review comments on the proposed rule and proposes a supplemental rulemaking later this year.

CLASS VI WELLS AND CARBON STORAGE

My understanding is that the Class VI Well permitting process is one of the most significant barriers to developing carbon capture and storage projects. The first Class VI Wells took over six years to be permitted by EPA.

Fortunately, as we have seen with the states who have received primacy, this timeline has been significantly reduced to a matter of months. States have the best knowledge of regional geology and areas in need of special protection.

Question: What is EPA doing to encourage states to apply for primacy and ensure an expeditious approval of state primacy applications?

Answer: EPA has several efforts ongoing to support states interested in applying for primacy and to ensure an expeditious approval of primacy applications. Over the past several years, EPA's Underground Injection Control (UIC) program has developed several tools to assist states, and EPA has streamlined the primacy review process to facilitate transparency and consistency. For example, EPA developed the UIC Program Class VI Primacy Manual and the UIC Program Class VI Implementation Manual for UIC Program Directors to help states apply for UIC program primacy for Class VI wells. The first manual describes the requirements for interested states, tribes, and territories to develop a UIC Class VI program and submit a primacy application to EPA. The second manual supports Class VI UIC program directors, upon obtaining Class VI primacy, in implementing their responsibilities over the course of a Class VI geologic sequestration project from pre-permitting through site closure.

The agency has a dedicated team that works collaboratively with each state to guide them through the process of applying for primacy. This process involves three phases: pre-application activities, completeness review and application evaluation, and final rulemaking/codification. EPA encourages states interested in applying for Class VI primacy to engage with EPA early in their process to schedule "pre-application" discussions. During these discussions, EPA can provide technical assistance and share lessons learned and templates from previously approved primacy programs. EPA may also work with the state to review the state's draft UIC statutes and regulations and complete a crosswalk that is used to compare the state's program with the federal UIC regulations.

Additionally, EPA has several efforts underway to support state capacity development efforts before, during, and after approval of Class VI primacy. For example, EPA developed a Class VI implementation training program that is available to EPA permit writers and state agencies and a Class VI permit application outline, which outlines minimum requirements for a Class VI permit application. Additionally, states with Class VI primacy have the option to use EPA's Class VI electronic reporting system, the Geologic Sequestration Data Tool (GSDT), for their permit reporting needs.

Lastly, EPA Class VI permit writers often invite state programs interested in Class VI primacy to observe EPA's permitting process for proposed geologic sequestration projects in their state. For example, EPA Regions often invite state programs, particularly those working closely with EPA to apply for Class VI primacy, to attend meetings with prospective Class VI permit applicants, examine application materials (with the applicant's permission), collaborate on solutions to technical challenges, and examine draft permits before public participation. Activities such as these ensure a smooth transfer of authority for permits if the state receives Class VI primacy in the future and help build technical capacity within those states.

Question: When can we expect the report and what recommendations will the Agency make to improve the permitting process?

Answer: The report is with the Office of Management and Budget for interagency review, and the final report will include recommendations.

HFCS

Last October, EPA finalized a rule to implement the American Innovation and Manufacturing (AIM) Act which Congress passed to reasonably phasedown the production and use of hydrofluorocarbons, also known as HFCs. I was extremely disappointed that as part of EPA's implementation efforts, the Agency went well beyond the scope and authorities of the AIM Act and issued a ban of non-refillable, disposable cylinders used to store and transport various HFC gases.

Prior to EPA finalizing the rule, I joined Members of the Ohio delegation from both sides of the aisle to write to EPA outlining the impacts that a ban would have on skilled workers in our state and to consider reasonable alternatives. Unfortunately, those considerations were not taken into account when the Agency finalized the rule.

Question: Why did EPA fail to consider reasonable alternatives from impacted industry groups when finalizing the AIM Act rule?

Answer: The Agency received and is reviewing petitions for Partial Administrative Reconsideration on this topic filed by Worthington Industries and Heating, Air-conditioning & Refrigeration Distributors International (HARDI). This is in addition to the petitions for judicial review filed by Worthington, HARDI, and others in the HVAC industry. Issues related to the refillable cylinder requirement have been raised in the case pending before the U.S. Court of

Appeals for the D.C. Circuit. Currently, the Agency is considering the best path forward regarding the petitions for Partial Administrative Reconsideration recognizing the ongoing petitions for judicial review pending before the D.C. Circuit.

TOXIC SUBSTANCES CONTROL ACT RISK EVALUATIONS

In June 2021, EPA announced policy changes surrounding risk evaluations issued under the Toxic Substances Control Act, including reopening and re-reviewing the first 10 risk evaluations that were finalized in 2021. In 2022, EPA released updated risk evaluation information for HBCD and PV-29.

Question: Please provide an estimate of the funds EPA has spent since June 2021 to re-review the HBCD and PV29 risk evaluations and the amount EPA expects to spend to re-review the remaining risk evaluations proposed and/or completed by the Agency during the previous administration.

Answer: As announced in June 2021 (*see*, https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations), EPA plans to propose revisions to the risk determinations for the first 10 chemicals, in which EPA will propose a determination of unreasonable risk for the whole chemical substance, if appropriate, and remove assumptions about workers' use of personal protective equipment. Thus far, EPA has issued draft revised risk determinations for HBCD and PV29. The scientific analysis and risk assessment work underlying the HBCD and PV29 risk evaluations has not been re-opened. EPA has spent approximately $16,000 and one FTE to revise the risk determinations. No additional resources are expected to be required for these. EPA has allocated an additional $48,000 and 3.5 FTE for revising the risk determination for any of the other first 10 chemicals that EPA determines need to be similarly revised.

The Agency is also conducting a supplemental risk evaluation for 1,4-dioxane because the final risk evaluation did not include all exposure pathways or conditions of use and failing to do additional analysis could result in a failure to meet the statutory requirements of risk evaluations under TSCA. For the other six chemicals, EPA has spent funds to support analyses of potential fenceline impacts on communities that are near industrial facilities that may be disproportionately exposed to the substance over a long period of time. The Agency has allocated the following resources: $120,000 (non-pay) and 5 FTE for the 1,4-dioxane supplemental risk evaluation and $249,500 (non-pay) and 4 FTE for the fenceline analyses in FY 2022.

In addition, as a result of the November 2019 decision of the U.S. Court of Appeals for the Ninth Circuit in *Safer Chemicals Healthy Families v. EPA*, in which the court held that EPA unlawfully excluded "legacy uses" and "associated disposals" from the statutory definition of "conditions of use," EPA is conducting part 2 of the risk evaluation for asbestos, which will focus on legacy uses and associated disposals of asbestos, other types of asbestos fibers in addition to chrysotile, and conditions of use of asbestos in talc and talc-containing products.

TOXIC SUBSTANCES CONTROL ACT FEES

In recent comments, EPA had indicated plans to significantly increase the fees associated with the TSCA program when it releases its supplement to the 2021 proposed revision to the fees rule later this year.

Question: How is EPA quantifying the costs of implementing TSCA and when will the Agency provide a report to Congress summarizing this information?

Answer: The *Frank R. Lautenberg Chemical Safety for the 21st Century Act* (Public Law [P.L.114-182]) ("Lautenberg Act"), signed by President Obama on June 22, 2016, substantially amended TSCA. Under section 26(m) of TSCA as amended, EPA was required to submit an initial report to Congress not later than six months after the date of enactment of the Lautenberg Act and is required to submit updated reports not less frequently than once every five years thereafter. The report must include estimations of:

- The capacity of EPA to conduct and publish risk evaluations under TSCA sections 6(b)(4)(C)(i) (EPA-initiated risk evaluations) and (ii) (manufacturer-requested risk evaluations);
- The resources necessary to conduct the minimum number of required EPA-initiated risk evaluations;
- The likely demand for manufacturer-requested risk evaluations and the anticipated schedule for accommodating that demand;
- EPA's capacity to promulgate TSCA section 6(a) risk management rules as required to address unreasonable risks identified in risk evaluations conducted and published under TSCA section 6(b); and
- EPA's actual and anticipated efforts to increase capacity to conduct and publish risk evaluations under TSCA section 6(b).

EPA has drafted an updated Report to Congress consistent with those statutory requirements. The draft is undergoing internal review prior to entering interagency review.

EPA's methodology for quantifying the costs of implementing TSCA includes estimates of the costs of implementing various responsibilities required by the statute, including annual costs associated with the development of risk evaluations. Initial results of this analysis as applied to the development of risk evaluations are included in EPA's 2021 Annual Plan for Chemical Risk Evaluations (https://www.epa.gov/system/files/documents/2021-12/2021-12-21-epa-2021-annual-plan-for-chemical-risk-evaluations-under-tsca.pdf), which found that the resources available for EPA to conduct TSCA risk evaluations fall far short of the needs. This analysis will be updated in the forthcoming Report to Congress to reflect current budget status.

In November 2021, EPA's Office of Inspector General (OIG) identified OCSPP's lack of capacity to fulfill its statutory obligations under TSCA as one of EPA's top management challenges in FY 2022. The OIG's assessment confirmed its August 2020 finding that "EPA's TSCA risk evaluation capacity needs to dramatically increase to meet the statutory risk evaluation requirements of the 2016 TSCA amendments." Similarly, EPA's lack of capacity to

meet its responsibilities under TSCA is a key reason keeping the program on the U.S. Government Accountability Office's high-risk list.

TOXIC SUBSTANCES CONTROL ACT ASSESSMENTS

I understand that in some cases, EPA is undertaking multiple, simultaneous hazard and dose-response assessments of the same chemical. For example, a chemical can be assessed under TSCA, FIFRA, and the IRIS program.

Question: How will EPA ensure that there are not duplicative efforts and resources spent on the same chemical?

Answer: Different statutes may address the same issues (or even the same chemical substances) in different ways that, together, serve to protect people and the environment. EPA administers TSCA and FIFRA in a manner that complements, without duplicating, other chemical-related activities conducted across the agency. FIFRA ensures that chemical products intended for pesticidal purpose do not cause unreasonable adverse effects on the environment when they are used in accordance with their labeling. Pesticides may be applied to, for example, premises and equipment in agricultural, commercial, industrial, institutional, food handling, residential, and veterinary settings, as well as, in oil and gas industry water systems and as material preservatives. Under TSCA, EPA protects against unreasonable risk of injury to health or the environment from chemicals under their conditions of use, including domestic manufacturing, import, processing, distribution in commerce, disposal, and industrial, commercial and consumer uses.

Formaldehyde is one example of a chemical undergoing multiple review processes. TSCA's statutory timeframe for the evaluation of a chemical substance designated as a high priority for risk evaluation and FIFRA's registration review timeline necessitates using scientific information as it is available to the Agency. In the case of formaldehyde, EPA expects the IRIS assessment to become final while work on the TSCA risk evaluation and FIFRA registration review risk assessment continues. Using information from the draft IRIS assessment now to inform the draft TSCA evaluation and draft FIFRA risk assessment and making any necessary adjustments later once the IRIS assessment is final is a way to ensure that the Agency does not duplicate analytical effort while helping the agency do its best to meet statutory obligations. The formaldehyde TSCA risk evaluation and FIFRA risk assessment, with appropriate inclusion of information from the IRIS assessment, will undergo extensive public comment and peer review. At that time, EPA will be transparent about how information from the IRIS assessment was used in the formaldehyde risk evaluation or risk assessment.

In addition, EPA is continually engaged in collaboration and coordination across the agency as well as with its federal partners, including the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and others on risk management. This helps further ensure that efforts are not being duplicated.

Question: What steps is EPA taking to ensure that the Agency meets its statutory mandate to complete reviews of new chemicals in a timely fashion?

Answer: When Congress amended TSCA in 2016, the increased responsibilities associated with the amendments were not supported with additional resources. Likewise, previous administrations did not ask for additional resources for TSCA implementation or adopt a meaningful plan for implementing the law. As a result of these compounding issues, EPA's New Chemicals Program is operating at less than 50% of the resources it needs to execute the program as Congress intended on the amended law. EPA requested additional funding in its FY 2022 President Budget request to meet the expectations of Congress and stakeholders, but only received a modest increase for the TSCA program in appropriation. In the Agency's FY 2023 budget request, EPA again requested funding that would allow the new chemicals program to get its work done on time and on budget to keep pace with TSCA's challenging deadlines. Currently, EPA is working within the constraints of limited resources and, where possible, is implementing improvements to the process to help streamline reviews and gain efficiencies while also maintaining the scientific robustness of its reviews. EPA's New Chemicals Program will continue to struggle until it receives sufficient resources to get the program back on track and complete the new chemical reviews in a timely manner.

Nevertheless, EPA is making progress on its New Chemicals Program. The New Chemicals Program has evaluated over 200 standard operating procedures (SOPs) and has begun updating high-priority SOPs for human health assessment. In January 2022, EPA's New Chemicals program initiated a robust, consistent, and efficient process to streamline and standardize the assessment of risk and application of mitigation measures, as appropriate, for substitutes to petroleum-based fuels and fuel additives that use biobased or waste-derived sources to produce biofuels.

Under this effort, EPA formed a dedicated team to collaborate on the review of premanufacture notices (PMNs) for biobased or waste-derived feedstocks used to make transportation fuel substitutes with the goal of using the best available science while creating a consistent and efficient review process. The same dedicated team will conduct reviews for all biofuels PMNs, which will help ensure the assessments and determinations are consistent and aligned with requirements. Further, EPA will generate one report for biofuels PMNs that combines the six different risk assessments typically conducted for PMNs, which will help provide a clearer summary explanation of how EPA conducted its assessment and made its determination. For risk management actions, the New Chemicals Program will apply appropriate mitigation measures to address any potential for unreasonable risk identified in an efficient and consistent manner within TSCA consent orders and significant new use rules.

Under EPA's biofuels PMNs initiative, as of May 2022 EPA has completed the risk management actions (includes TSCA section 5 determinations and TSCA section 5(e) orders) for about half of the total submissions. EPA anticipates completing the risk assessment for the majority of the remaining submissions in June 2022 and will work with the submitters to complete the risk management actions soon after. EPA is also exploring additional sectors to which we can apply a streamlined approach.

In February 2022, EPA launched a new effort under TSCA to modernize the process and bring innovative science to the review of new chemicals before they can enter the marketplace. Through this effort, OCSPP is proposing to develop and implement a multi-year collaborative

research program in partnership with EPA's Office of Research and Development and other federal entities focused on approaches for performing risk assessments on new chemical substances under TSCA. EPA appreciates its partnership with Congress in accomplishing this important work on new chemicals.

PFAS

As EPA makes progress on implementing its PFAS Strategic Roadmap, I have heard concerns from public wastewater utilities that a CERCLA listing for PFAS could leave them liable to bear the costs of contamination – putting the onus on local communities and households.

Question: If a designation moves forward, will EPA commit to ensuring public wastewater utilities and local communities are not held liable under CERCLA for PFAS contamination?

Answer: EPA has been gathering information from interested stakeholders, including water utilities, and is aware of their concerns as it has worked to develop a proposal to designate perfluorooctanoic acid (PFOA) and Perfluorooctane sulfonic acid (PFOS) as CERCLA hazardous substances. Although the Agency lacks authority to provide liability exemptions to particular entities, the Office of Land and Emergency Management has been working with its enforcement counterparts to prepare to assist parties such as water utilities to address any liability concerns should such a proposal be finalized. Historically, EPA has handled liability issues involving municipalities and other small contributor parties based on site-specific circumstances. The Agency has several enforcement tools, such as *de minimis* and ability-to-pay settlements, to provide these parties contribution protection from third-party claims.

IMPROVING DRINKING WATER IN RURAL AMERICA

There is a pressing need to continue efforts to improve drinking water across the country, but especially in rural America where water systems are small. Small systems face capacity issues without as many resources; they lack economies of scale to spread the cost of system operations and often need more attention and assistance from the federal government. While Congress provided nearly $26 million for technical assistance to small systems in fiscal year 2022, funding is not included in the President's fiscal year 2023 request.

Question: Please explain why this important assistance is again not included in the fiscal year 2023 budget.

Answer: Meeting the drinking water and wastewater needs of Rural America is a top priority of the Office of Water. Requested investments in FY 2023 reflect EPA's commitment to improve water quality, especially where it is needed most—in small, rural, low income, and disadvantaged communities that have been disproportionally affected by pollution and need further investment. EPA is committed to incorporating equity into our efforts to support small and disadvantaged communities and recognize the important role small systems have in providing safe drinking water to rural and urban areas across the country.

In addition to a $250 million increase in Water Infrastructure Investments for the Nation Act and America's Water Infrastructure Act drinking water grants, EPA is requesting $565 million in new grant programs authorized by the Infrastructure Investment and Jobs Act to help address some of the most significant drinking water issues that exist across the country, including those in small and underserved communities. Finally, EPA is leveraging its administrative resources under the Infrastructure Investment and Jobs Act and base SRFs to provide technical assistance to communities - including rural communities – to support their development of projects and applications for these important state-administered funds. EPA will launch multiple new IIJA-funded technical assistance efforts, in partnership with states, in the coming months – and serving rural communities will be a core focus.

PRIA RESOURCE NEEDS

Question: What funding does the Agency need in fiscal year 2023 to meet the PRIA deadlines for new submissions? What is needed, from a funding perspective, to clear the PRIA and non-PRIA backlog?

Answer: EPA has seen an increase in new submissions for PRIA actions as well as renegotiation of PRIA-fee- for-service actions. Despite completing record numbers of PRIA actions the past few years, EPA's FY 2022 mid-year renegotiation rate for PRIA actions has risen to almost 50% for all PRIA applications and to almost 70% for conventional pesticides. For comparison, 5 years ago in FY 2017 the PRIA renegotiation rate was 13%, and at the end of FY 2021 the renegotiation rate was 34%. In the same timeframe, the prioritization of review of PRIA actions with statutory decision timeframes over non-PRIA actions without statutory due dates has led to a decrease in the number of non-PRIA completions in recent years, and the development of the backlog. Currently, there are more than 11,000 pending non-PRIA pesticide actions from previous years that still are to be completed. In addition, the scientific and legal complexity of pesticide submissions has increased significantly, while the Pesticide Program has been losing seasoned and experienced staff and program resources have remained flat over the years. For example, there are 30% fewer staff in the Pesticide Program than there were 15 years ago. Not having the right level of staff capacity requires more time to complete pesticide actions and further contributes to a growing backlog.

EPA recognizes that market predictability is one of the main objectives of PRIA and its reauthorizations. The Agency is actively working with its stakeholders to identify process improvements and resource needs in the future to bring EPA's decision review timeframes back in alignment with statutory timeframes in PRIA, to eliminate the existing backlog of non-PRIA actions, and to improve review timeframes for non-PRIA applications going forward so that a backlog does not again develop.

Moreover, EPA also is responsible for meeting its Endangered Species Act (ESA) obligations when the Agency takes certain actions under FIFRA (e.g., registering a pesticide that could affect listed species). Listed species assessments involve consideration of risks for approximately 1,200 active ingredients in more than 17,000 pesticide products to more than 1,600 listed endangered species and 800 designated critical habitats in the United States. Given

the complexity of evaluating potential effects to diverse listed species, EPA has not met its ESA obligations for most of its FIFRA actions, which has resulted in numerous judicial challenges for registration and registration review actions. To begin making incremental progress toward meeting ESA mandates, the FY 2023 Budget includes an additional $4.9 million and 10 FTE to enable the Pesticide program to make progress toward better protection for federally threatened and endangered species when considering applications.

Question: What other factors are contributing to renegotiations for PRIA actions and non-PRIA action delays?

Answer: Factors include: an increase in the number of submissions and complexity of PRIA applications; a significant increase in the submission of biopesticide new active ingredients over the past few years; and a diversion of resources toward expediting review of new products and amendments as part of EPA's COVID-19 response. As mentioned in the previous response, the prioritization of review of PRIA actions with statutory decision timeframes over non-PRIA actions without statutory due dates has led to a decrease in the number of non-PRIA completions in recent years, and the development of the backlog.

While conventional and antimicrobial new active ingredient submissions levels have not varied greatly, the EPA Pesticide Program has seen a significant increase in the number of new biopesticide active ingredient submissions over the past five years. Prior to 2018, the program typically received five to seven new biopesticide active ingredient submissions per year. Over the past five years, a total of 90 biopesticide active ingredient submissions have occurred averaging 18 per year. Additionally, many biochemical and emerging technology submissions have become more scientifically complex, requiring additional resources for completion during the same time period.

COAL-FIRED POWER PLANTS

I understand the Agency is working on a "suite of regulations" to impose on coal-fired power plants and I have some concerns that these regulations could potentially force the early retirement of numerous coal units which could strain national and regional reliability and increase costs.

Question: Is EPA aware of these concerns regarding potential impacts to grid reliability? How will the Agency address such concerns in forthcoming EPA policies?

Answer: EPA has a responsibility to address the harmful health and environmental impacts resulting from power plant pollution. EPA is committed to using EPA's authorities to address these impacts, as our nation's environmental laws require, while also prioritizing reliability and affordability for families and the electricity sector. EPA actively engages directly with the electricity sector including system operators, state regulators, DOE, FERC, and other parties that have the know-how and responsibility for ensuring reliability and affordability.

NERC's recent report anticipating the possibility of blackouts and brownouts in areas of the country this summer did not identify EPA regulations as creating a reliability issue. EPA has

a history of delivering public health and environmental protections while protecting grid reliability. Both past and present rules reflect robust resource adequacy and reliability considerations in our analysis, as well as implementation safeguards to serve as a backstop if any tensions between reliability and environmental charges were to arise.

Question: Will EPA commit to working with impacted reliability organizations if the Agency pursues such a "suite" of regulations?

Answer: As noted in the previous answer, EPA has been, and continues to engage with all stakeholders, including reliability organizations. EPA welcomes constructive input to facilitate compliance with electric reliability standards while ensuring achievement of public health protections and looks forward to continuing our engagement with reliability organizations as we proceed.

QUESTIONS SUBMITTED BY REPRESENTATIVE KAPTUR

IIJA IMPLEMENTATION

Administrator Regan, thank you again for visiting my hometown of Toledo, Ohio! We are at the heart of the industrial Midwest – the region that was the engine powering the United States to victory in WWI, and the region that built much of what makes the United States the greatest nation in the world. However, your visit highlighted some of the problems that my region and hometown face. After decades of neglect and underinvestment, the Great Lakes region has aging and sometimes harmful infrastructure.

You and I visited the home of my constituent, Karen George, who, like so many in my region, has lead service lines in her neighborhood. Although we have made progress replacing this antiquated infrastructure in Toledo, it will take a lot more investment to replace these lines throughout the industrial Midwest.

That is why I am proud that my Democratic colleagues and some of our Republican friends passed the Infrastructure & Jobs bill. This bill is critical to correcting mistakes of the past and to lifting communities like mine that have been left behind.

Question: Can you discuss the progress that EPA is making on projects like lead line replacement because of the Infrastructure & Jobs bill?

Answer: EPA's *Implementation of the Clean Water and Drinking Water State Revolving Fund (SRF) Provisions of the Bipartisan Infrastructure Law (BIL)* memo, released in March 2022, is a key milestone in the Agency's work to allocate Infrastructure Investment and Jobs Act (IIJA) funding, especially for lead service line replacement. The memo provides extensive information on requirements, recommendations, and flexibilities for implementing the Drinking Water and Clean Water SRFs to ensure that EPA, states, and communities across the country are working together to deliver clean and safe water and replace lead pipes throughout the country, especially in disadvantaged communities.

EPA is currently supporting states as they develop and submit their intended use plans for FY 2022 funds and will work expeditiously to ensure that IIJA funds for activities like lead service line inventories and replacements are allocated. Additionally, in August 2022, EPA released guidance to water systems on developing their lead service line inventories, the first step in moving towards full lead service line replacement. Inventory development is an eligible project for funding under the IIJA Drinking Water SRF and a critical first step for many communities.

SUPPORTING LOCAL GOVERNMENTS

As you implement IIJA, I would also like to raise with you an issue affecting communities like mine: debt and mandates. The EPA does great work protecting our environment; however, in the past it has imposed significant mandates on lower income communities like mine but without

providing the resources and funding to meet those mandates. A measure of this fiscal crisis is found in the high municipal indebtedness of cities in my region. Detroit and Cleveland each have a municipal bonded indebtedness of more than two billion dollars. Toledo owes $1.6 billion and Milwaukee almost $1.4 billion. Faced with the high costs of operation, repairs, rehabilitation and replacement, coupled with unavoidable federal mandates that come with only 50 percent funding, these municipalities are forced to increase utility rates on customers who are already in economic trouble.

Question: Can you discuss EPA's efforts to work with communities that really need the help? How much IIJA funding will be directed to low-income communities like mine?

Answer: EPA has an incredible opportunity to bring together our clear commitment and focus on issues of equity, justice, and civil rights at a time when we have historic resources to address decades of disinvestment in infrastructure. EPA is committed to exceeding the President's mandate that 40 percent of the benefits of certain programs flow to disadvantaged communities and to tracking and mapping where these investments touch down on the ground in communities as accurately as possible for each program.

EPA is expanding our initial effort that focused on the six pilot programs identified in the Interim Justice40 guidance issued by the White House to now include any program funded by the Infrastructure Investment and Jobs Act (IIJA) that meets the criteria of Justice40. For example, EPA recently awarded $180 million in Brownfields grants to communities under the IIJA. Approximately 86 percent of the communities selected to receive funding have proposed projects in historically underserved areas.

EPA also will prioritize the majority of the environmental justice (EJ) funding provided in the FY 2022 omnibus appropriation to support, through grants and technical assistance, the efforts of local communities with EJ concerns and their partners such as local governments to advance EJ efforts towards meaningful change on the ground for communities.

PFAS AND OTHER CHEMICALS

Per- and polyfluoroalkyl substances (PFAS) chemicals are all too prevalent in communities across the country. These "forever chemicals" pose serious health problems for millions of Americans, including thyroid, kidney, liver, heart, and reproductive problems, especially in communities like mine with older populations and people with lower incomes.

Question: The PFAS Roadmap set a Summer 2022 Deadline to close the door on abandoned uses of PFAS. Will you meet that deadline? The PFAS Roadmap set a Fall 2022 deadline to evaluate measures to reduce PFAS pollution into the air, including a potential designation as Hazardous Air Pollutants. Will you meet the deadline?

Answer: EPA plans to propose and seek comment on a Significant New Use Rule for abandoned PFAS, as defined in the PFAS Strategic Roadmap, in the coming months. EPA is committed to building the technical foundation to address PFAS air emissions and continues its

work to identify sources, develop and finalize monitoring approaches, evaluate mitigation technologies, and characterize fate and transport of air emissions. At the same time, EPA is considering potential regulatory options, including listing certain PFAS as hazardous air pollutants or pursuing other regulatory or non-regulatory approaches.

Question: Administrator Regan, Congress passed the Lautenberg Amendments to TSCA – the Toxic Substance Control Act – with broad bipartisan support and with considerable fanfare from both industry and environmental advocates. Unfortunately, the Act's promise remains unfulfilled due to a backlog of reviews that must be undertaken by the Office of Chemical Safety and Pollution Prevention – including a pending application necessary for the opening of an EV battery factor in Lordstown, Ohio. Failure to engage in a timely review threatens the plant's opening.

Answer: EPA's TSCA budget, including that for the New Chemicals Division, has been essentially flat since the enactment of the 2016 amendments. Despite significantly increased responsibilities under the 2016 TSCA amendments, EPA did not request additional resources for the TSCA program before FY 2022. The increased responsibilities under TSCA paired with flat resources has impacted the New Chemicals Divisions ability to meet review deadlines. However, industry submitters also contribute to inefficient reviews by not providing all useful information upfront, but rather providing it piecemeal as EPA conducts its review. This results in "re-work" by EPA that results in delays. OCSPP will continue to make every effort to increase efficiencies of new chemical reviews. OCSPP has analyzed these new chemical re-work issues and continues to conduct outreach to submitters to reduce rework. Also, the FY 2023 President's Budget request was based on a realistic assessment of the resources that would be required to operate the new chemicals program (and other TSCA responsibilities) in the manner Congress intended.

With regard to your inquiry into the Premanufacture Notification (PMN) applications for chemical substances that will be used in the manufacture of electric vehicle batteries, EPA is pleased to report that on May 4, 2022, EPA developed, signed and transmitted a TSCA section 5 consent order for the substances to the PMN submitters. EPA received the signed consent order on May 31, 2022, which enabled the Lordstown facility and other submitters to commence manufacture of the new chemical substances under the provisions of the order.

Question: Since passage of the Lautenberg Amendments, has the Office of Chemical Safety received the funding necessary to carry out the additional work necessary to implement and carry out this law?

Answer: The Lautenberg Act provided EPA with a great deal of new authority and responsibility. For existing chemicals, the law was changed from a discretionary statute, the power of which had been rendered largely ineffective due to litigation on EPA's 1989 ban on asbestos. The amended law requires EPA to prioritize and evaluate at least 20 chemicals at one time and provide protections against the identified risks through regulations systematically and comprehensively. For new chemicals, the law was changed from one under which risk assessments were completed for only about 20% of new chemicals to one requiring EPA to complete assessments and make an affirmative safety finding for 100% of new chemicals before they enter

commerce. The workload of new chemicals under review is consistently about 300 cases, which has been true for at least the past five years.

Despite this dramatic increase in responsibility, previous Administrations did not request additional resources from Congress between FY 2017 and FY 2021. EPA's TSCA program budget has remained flat for six years and is essentially the same as it was before the law was amended in 2016. As a result, EPA missed statutory deadlines for all but one of the first 10 agency-initiated chemical risk evaluations, and its existing chemicals workload has now more than doubled with more than 20 risk evaluations underway along with risk management rules for the first 10. EPA also continues to operate the Program with resource and capacity constraints and will continue to struggle to review the safety of new chemicals in a timely manner without additional resources.

The funding challenges of the TSCA program also extend to the information technology (IT) systems that support our new chemicals work. The IT systems that support new chemical workflows and the review of confidential business information are out of date and prone to extended shutdowns. When these systems are down, new chemical reviews also stop. EPA is in the process of modernizing its IT architecture, including investing in software, and enhancing approaches to improve the tools scientists use throughout the review process.

In the fiscal year 2022 President's Budget, EPA asked for the first-ever increase for the TSCA program since the 2016 amendments were enacted. EPA sought a modest an increase of $15.6 million and 87.6 FTE, but the Agency did not receive all that it requested. For the FY 2022 enacted budget, EPA received an increase from FY 2021 of $4.9 million that funds additional 25.6 FTE as well as another $5 million from a one-time Congressional reprogramming request approved in May 2022. To continue addressing the workload and resource needs, the FY 2023 President's Budget includes an increase of $64 million over the FY 2022 Annualized Continuing Resolution level of $60.3 million and 201 FTE to support the TSCA program. These additional resources, together with establishing and collecting fees that capture the real cost of EPA's TSCA work, are critical to ensuring the TSCA program can operate in a sustainable manner.

BUY AMERICA

I have long been a supporter of Buy America policies and strongly supported the inclusion of the Build America, Buy America Act, a bill I cosponsored, in the Infrastructure Investment and Jobs Act. I commend the Environmental Protection Agency for its effective implementation of the American Iron and Steel (AIS) requirements to the water infrastructure programs it administers. Your success there shows how critical projects can be completed with strong Buy America rules that support domestic investments, good manufacturing jobs, and ultimately reduce the need for waivers. With the significant resources allocated by the IIJA to the EPA, you once again have the opportunity to leverage these investments to create good manufacturing jobs and strengthen our economy.

One program I'm particularly interested in is the Clean School Bus Program. The auto sector is extremely important to Ohio, supporting thousands of jobs in vehicle production and throughout the supply chain.

Question: How will EPA administer BABA for the Clean School Bus Program to ensure these investments support workers throughout these supply chains? Would you consider a separate standard for the energy storage system to ensure Buy America rules function as intended and support other key suppliers and their workers?

Answer: Electric vehicle charging equipment meets the definition of infrastructure under the Build America, Buy America Act that took effect May 14, 2022. EPA intends for Clean School Bus Program funds to support domestically produced electric vehicle chargers and supporting manufactured products and construction materials. EPA is issuing an adjustment period waiver for public comment on the EPA Buy America website in recognition that manufacturers are in the process of scaling up domestic production and providing clear labeling to verify that charging equipment meets the requirements of this law. Consistent with that adjustment period waiver, applicants are encouraged, but not required, to source charging equipment where greater than 55 percent of the total cost of all components are manufactured in the United States. EPA will be working closely with the Department of Energy and Department of Transportation to strengthen the domestic content preference in future competitions.

Question: Further, how do you intend to implement a waiver process that only utilizes "time-limited," "targeted," and "conditional" waivers, as per OMB Made in America Office guidance? This is critically important to incentivizing the very investments in domestic capacity that will make waivers unnecessary, while addressing short-term domestic battery cell capacity challenges that allow procurements to move forward.

Answer: EPA is issuing an adjustment period waiver for public comment on the EPA Buy America website in recognition that manufacturers are in the process of scaling up domestic production and providing clear labeling to verify that charging equipment meets the requirements of this law. Consistent with that adjustment period waiver, applicants are encouraged, but not required, to source charging equipment where greater than 55 percent of the total cost of all components are manufactured in the United States. EPA will be working closely with the Department of Energy and Department of Transportation to strengthen the domestic content preference in future competitions.

ALTERNATIVE FUELS

The Bipartisan Infrastructure Law provides significant new funding for programs that have the potential to greatly expand alternative fuel infrastructure and alternative fuel vehicle use including natural gas vehicles. As part of these new programs, a lot of the funds go to electric vehicles, but Congress also made sure that other low-emission emission and alternative fuel vehicles qualify for many of these new programs.

Question: How does EPA and the Administration plan to ensure that the intent to encourage a variety of alternative fuel technologies is honored?

Answer: We recognize that funding programs which address vehicle technologies can be applied to a range of alternative-fueled zero and near zero emissions options. Recent funding

solicitations, including the Clean School Bus and DERA Tribal grants, have provided award applicants the ability to pursue the technology of their choice.

Question: I think we all recognize the importance of reducing emissions from trucks and buses and appreciate that fact that this Administration and the EPA are taking steps to reduce emissions with new standards for medium and heavy-duty engine and trucks that was proposed earlier this year, and that is currently the subject of a rulemaking. As part of this effort, it is my understanding that the EPA plans to revisit the credits in place to encourage various technologies and vehicle types. I would like to understand how these rules could encourage greater production of natural gas-fueled engines and trucks that are powered by domestic natural gas and domestic renewable natural gas.

Answer: The heavy-duty truck rule will reduce emissions from all engines, regardless of fuel type, and natural gas engines have demonstrated the ability to meet the more stringent standards that EPA has proposed. Natural gas-fueled engines are one of many technology pathways that manufacturers can choose to implement as they comply with future emission standards.

Question: How do you plan to promote greater use of RNG and other low-carbon, low-polluting biofuels?

Answer: The primary program that EPA implements that supports greater use of low-carbon renewable fuels is the Renewable Fuel Standard (RFS) program. Congress established the RFS program under the Energy Policy Act of 2005 and expanded it through the Energy Independence and Security Act of 2007. Under the RFS program, EPA establishes annual volume requirements for various categories of renewable fuels used in the transportation sector. Since the beginning of the RFS program, the program has played an important role in the increasing production and use of renewable fuel in the transportation sector in the U.S. Renewable natural gas (RNG) is a qualifying biofuel under the program, and RNG use under the program has been growing at a rapid rate in recent years.

ENERGY STAR

Administrator Regan, I would like to turn briefly to a program that makes up a small part of the EPA budget, but one that is relied upon to achieve significant carbon reductions for the environment and energy savings for consumers, but also adds significantly in terms of jobs for the economy, and that is the Energy Star program. According to the EPA's FY 2023 budget justification, for 2019 alone, Energy Star helped American families and businesses save nearly 500 billion kilowatt-hours of electricity and avoid $39 billion in energy costs. This resulted in emission reductions of nearly 390 million metric tons of GHGs (roughly equivalent to 5 percent of U.S. total GHG emissions). In terms of economic output, more than 800,000 Americans are employed in manufacturing or installing Energy Star certified equipment alone – nearly 35 percent of all energy efficiency jobs in 2019, with energy efficiency accounting for 40 percent of all energy sector jobs overall (EPA FY 2023 Justification, pages 200-203). With such large positive outcomes in climate, energy savings, consumer cost savings, and jobs, Energy Star has a budget of only $39

million based on FY 2021 allocations and is freshly off the cutting block from the previous administration.

Question: That said, what more is needed to multiply the many benefits of Energy Star, and what beyond $39 million will we need to substantially grow program outcomes?

Answer: The enacted budget (personnel and operational spending) for the ENERGY STAR program was $33.9 million in FY 2022. ENERGY STAR is funded under the Climate Protection Program, via EPA's Environmental Program Management (EPM) Appropriation. Since FY 2010, the climate protection program's enacted budget has been reduced by $15.44 million, while core ENERGY STAR needs (e.g., data systems and IT, up-to-date energy efficiency specifications & ENERGY STAR scores and program integrity) have grown substantially. These core program needs take up a significant part of the current ENERGY STAR budget and the program has a significant backlog of needed work.

The President's FY 2023 budget provides an approximate increase of $28 million to the climate protection program, which funds ENERGY STAR and other climate programs. Additional funding for ENERGY STAR would generally go towards two broad uses. First, additional resources would be used to address program backlogs and deferred activities to restore core program functions and integrity. These efforts would include, for example: addressing the growing backlog in ENERGY STAR efficiency specs for the range of products, industrial performance indicators, and score development for commercial buildings; major enhancements to Portfolio Manager to maintain its credibility as business standard tool; data integrity improvements; addressing deferred maintenance (e.g., to IT system configurations, security requirements and enterprise architecture); website enhancements to keep up with best practices, technology platforms and a growing focus on a mobile-first approach; restoring comprehensive oversight and third-party oversight of certification bodies and labs; and addressing program sectors in which to implement 2015 Congressionally mandated tenant recognition program (e.g., office spaces, retail spaces, warehouse spaces).

Second, additional resources would enable ENERGY STAR to develop and launch new initiatives needed to help achieve climate goals at the scale and pace needed, including delivering solutions to underserved communities. New efforts to advance GHG reductions could include:

- Expand ENERGY STAR Home Upgrade to deliver priority energy efficiency investments to millions of homes
- Additional ENERGY STAR product spec updates to accelerate reaching climate goals
- Launch of ENERGY STAR Next Gen to drive construction of efficient electric new homes
- Implement ENERGY STAR Most Efficient and Emerging Technology to help drive advanced energy efficiency solutions
- Installer training for priority products (e.g., heat pumps HVAC and water heaters)
- Support the growing number of state and local governments that have adopted or are considering building performance standards and/or benchmarking and disclosure policies
- Launch a new emissions-based building and plant recognition program, accelerating the pathway to zero-carbon building standards

- Additional enhancements to ENERGY STAR Portfolio Manager to add energy efficiency metrics in industrial facilities and hard to reach commercial sectors, and add refrigerant tracking to the tool
- Partner with DOT and GSA on reducing emissions in concrete and cement (per Infrastructure Investment and Jobs Act ((IIJA))
- Program support activities (e.g., research, program evaluation, metrics) to inform additional future program directions

New efforts to advance delivery of climate equity could include:

- Targeted education and outreach to improve access to ENERGY STAR products among underserved communities
- Expanding Inclusive Utility Investment programs in conjunction with the ENERGY STAR Home Upgrade to deliver priority efficiency upgrades to underserved populations
- Addressing affordability in key appliance categories in strategic collaboration with manufacturers, retailers, and utilities
- Expand ENERGY STAR Best Value Finder to highlight products available at the best prices
- Promoting updated ENERGY STAR certification requirements for manufactured homes
- Work to increase the energy efficiency of existing multifamily housing
- Outreach to State Housing Finance Agencies to encourage adoption of incentives for energy efficiency (and ENERGY STAR certification) in their "Qualified Allocation Plans"
- Coordination with federal agencies on energy efficiency in federally funded affordable housing
- Increase the energy efficiency of worship facilities through ENERGY STAR tools and resources

QUESTIONS SUBMITTED BY REPRESENTATIVE STEWART

NATURAL GAS VEHICLES

I am aware that the U.S. EPA is taking steps to reduce emissions with new standards for medium and heavy-duty engines and trucks that was proposed earlier this year, and that is currently the subject of a rulemaking. As part of this effort, it is my understanding that the EPA plans to revisit the credits in place to encourage various technologies and vehicle types. I would like to understand how these rules could encourage greater production of natural gas fueled engines and trucks that are powered by domestic natural gas and domestic renewable natural gas. For many medium and heavy-duty trucks, I think there is some agreement there will continue to be a need for internal combustion engines and technologies in addition to electric vehicles to meet the needs of fleets and reduce emissions. I'm particularly interested in understanding if the Administration has any plans to promote greater use of RNG and other low-carbon, low-polluting biofuels as part of this rulemaking. Over the years I heard that one of the limitations of EPA's programs is that they don't take into account upstream or well-to-wheel emissions, not for electric vehicles, and not for fuels, and therefore do not provide an incentive for truck or vehicles manufacturers to produce lower polluting vehicles that use low-carbon biofuels.

Question: How is EPA addressing this issue?

Answer: The primary program that EPA implements that which supports greater use of low-carbon renewable fuels is the Renewable Fuel Standard (RFS) program. Congress established the RFS program under the Energy Policy Act of 2005 and expanded it through the Energy Independence and Security Act of 2007. Under the RFS program, EPA establishes annual volume requirements for various categories of renewable fuels used in the transportation sector. Since the beginning of the RFS program the program has played an important role in the increasing production and use of renewable fuel in the transportation sector in the U.S. Renewable natural gas (RNG) is a qualifying biofuel under the program, and RNG use under the program has been growing at a rapid rate in recent years.

In previous EPA regulatory actions to establish or revise GHG emission standards for light-duty vehicles we have included estimates of the upstream and downstream emissions impacts from vehicle electrification. Analysis was performed in the 2012 final rule establishing GHG standards for Model Years 2017 – 2025, in the 2020 final rulemaking for GHG standards for Model Years 2021 – 2026, and in the 2021 final rulemaking for GHG standards for Model Years 2023 – 2026.

EPA's recent proposal for revised emission standards for highway heavy-duty engines and vehicles is focused on reducing emissions from the engine and vehicle, as EPA has done in previous heavy-duty emission standard setting programs. In this proposal, EPA continues the practice of allowing manufacturers to generate emission credits, which can be used in the emissions averaging, banking, and trading program if they certify their products below the standard, and this ability is available to traditional and alternative fuels. EPA has generally considered the life cycle emissions impacts of engine and vehicle standards for greenhouse gases when characterizing the effects of standards.

The recent Bipartisan Infrastructure Law provides significant new funding for programs that have the potential to greatly expand alternative fuel infrastructure and alternative fuel vehicle use including natural gas vehicles. As part of these new programs, a lot of the funds go to electric vehicles, but Congress also made sure that other low-emission emission and alternative fuel vehicles qualify for many of these new programs.

Question: How does EPA and the Administration plan to ensure that the intent to encourage a variety of alternative fuel technologies is honored?

Answer: We recognize that funding programs which address vehicle technologies can be applied to a range of alternative-fueled zero and near zero emissions options. Recent funding solicitations, including the Clean School Bus and DERA Tribal grants, have provided award applicants the ability to pursue the technology of their choice.

METHANE TESTING AND INSPECTION PROPOSAL

Question: The proposal was not an actual rule. It was 57-page narrative/preamble document. When will the full regulatory text – not supplemental narrative -- be released?

Answer: The November 2021 proposal addressed a total of four regulatory subparts and one appendix under 40 CFR part 60. EPA did include amendatory regulatory text in the public docket for two of the four subparts in addition to the appendix. EPA provided detailed descriptions of its proposal for the other two subparts for notice and comment in the November 2021 proposal.

Question: How long will the public comment period be for the regulatory text?

Answer: The duration of the public comment period will be announced with the release of the supplemental proposal, which we intend to issue later this year.

Question: Based on a review the draft proposal, it appears that EPA's intention is to provide a regulatory exemption for operations that emit less than three tons of methane annually. Is that still EPA's intent when the regulatory text is released?

Answer: EPA's proposal defined monitoring frequencies for ground-based camera surveys based on site-wide baseline methane emissions calculations. In the November 2021 proposal, we solicited comment on this approach, and other thresholds, such as the presence of specific equipment located at well sites. EPA received a diverse set of stakeholder comments on both the emissions-based and equipment-based approaches and is continuing to evaluate the information provided as we develop the supplemental proposal.

Question: Why is EPA using tons of methane as a measure of emissions when operations and sales are measured in thousand cubic feet measurements (MCF)?

Answer: When determining the best system of emission reduction, EPA has historically measured emissions on a mass basis to compare to the costs of control. In the November 2021

proposal, we solicited comment on this tons per year approach, and other thresholds, such as the presence of specific equipment located at well sites. EPA received a diverse set of stakeholder comments on both the emissions-based and equipment-based approaches and is continuing to evaluate the information provided as we develop the supplemental proposal.

Question: Such inconsistency in application will cause untold costs, time and effort by small producers. Will you commit to work with stake holders and interested parties to establish exemption measures in measurements that are consistent with industry standards and operations?

Answer: EPA has proposed to update and strengthen standards for methane and volatile organic compounds from new, modified, and reconstructed oil and natural gas facilities, as well as to issue the first nationwide emission guidelines for states to follow in limiting methane from existing sources. The proposal reflects proven, cost-effective measures that several states and leading companies are already using to minimize oil and natural gas pollution, as well as innovative technologies that allow methane emissions to be detected more quickly and cost-effectively than ever before. EPA received over 470,000 comments on the November 2021 proposal. I do not want to prejudge the outcome of this regulatory process; EPA looks forward to ongoing and robust stakeholder engagement as the Agency continues to review comments on the proposed rule and proposes a supplemental rulemaking later this year.

RULE ON NEW SOURCE PERFORMANCE STANDARDS AND
GUIDELINES FOR METHANE EMISSIONS

Question: Will you commit to not releasing a formal draft rule until the DOE study is finalized?

Answer: It is our understanding that the DOE report was finalized.

Question: Once the DOE study is finalized, how does EPA plan to incorporate the results given that the initial proposal includes onerous burdens on low-producing wells?

Answer: EPA is reviewing the information collected during this study and the conclusions that data provides. EPA is also considering this study, along with several other published studies on methane emissions from well sites, in development of the supplemental proposal.

Question: If the DOE study finds that low producing wells contribute little towards overall emissions, will you pledge to remove the new regulatory requirements on those wells from any rule EPA formally proposes this year?

Answer: EPA is reviewing this study, along with several other published studies on methane emissions from well sites, in development of the supplemental proposal. The assessment of the best system of emission reduction takes into consideration a variety of information available to EPA, and EPA will consider whether any information supports the inclusion of specific exemptions.